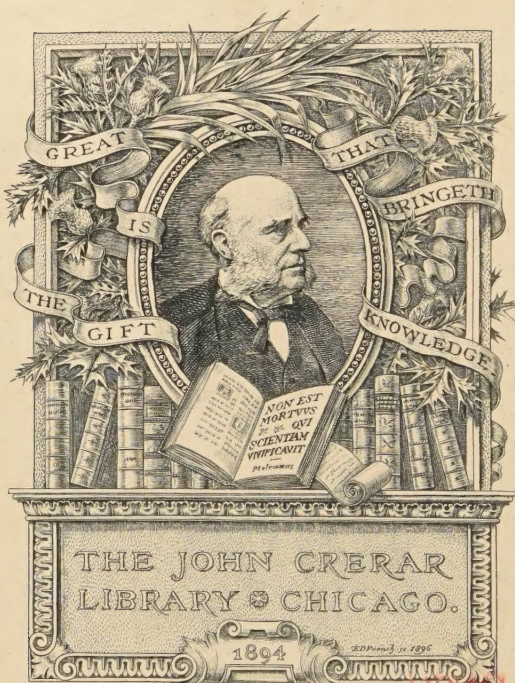


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THE ORIGIN
OF PROPERTY

JAN ST. LEWIŃSKI



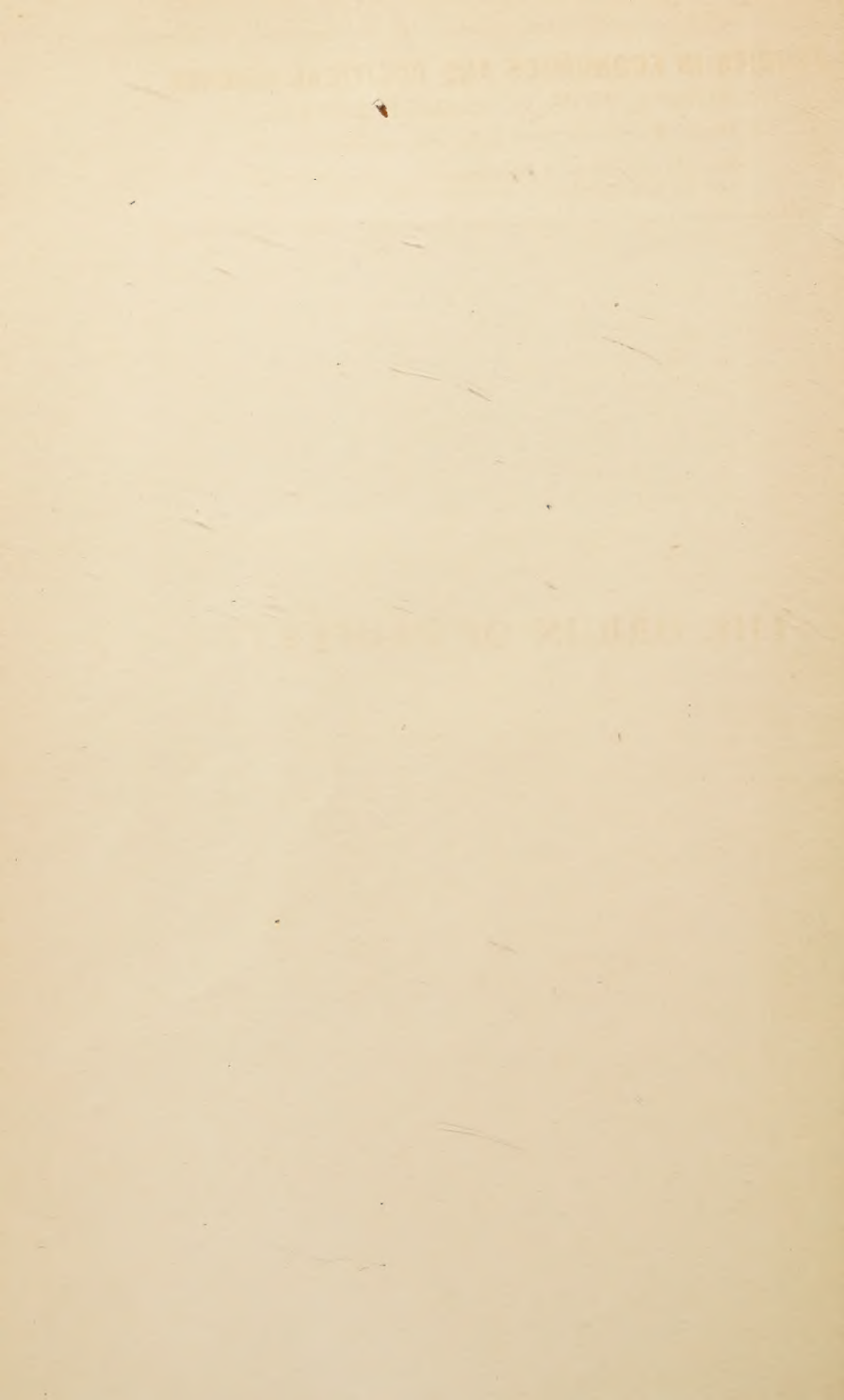
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THE ORIGIN OF PROPERTY



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THE ORIGIN OF PROPERTY

AND THE FORMATION OF THE
VILLAGE COMMUNITY

A COURSE OF LECTURES DELIVERED
AT THE LONDON SCHOOL
OF ECONOMICS

BY
JAN ST^{anislaw} LEWIŃSKI
"

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PREFACE

MORE than two years ago, when reading Prof. Kaufman's article about the village community in Siberia,¹ my attention was directed to the existence of a very rich Russian literature dealing with primitive forms of property. I thought that the study of these materials would throw new light on the problems connected with the formation of property in general, and that it was worth while for me to try to overcome the difficulties which the reading of Russian presented.

As most of the publications I needed were neither in the British Museum nor in any other library outside of Russia I travelled in 1911 and 1912 to St. Petersburg.

I am deeply indebted to Mr. Krivoshein, Minister of Agriculture, and to the officials of his department, who kindly presented to me most of the books quoted in this study and provided me with maps of Russian villages. My acknowledgments are due also to Prof. Kaufman for the benefit of his advice.

¹ Beiträge zur Kenntnis der Feldgemeinschaft in Sibirien. Brauns Archiv für soziale Gesetzgebung und Statistik, 1896. There are two other studies in German describing the forms of property in Siberia: Simkowitsch's *Die Feldgemeinschaft in Russland* (1898) and A. A. Tschuprow's *Die Feldgemeinschaft* (1902).

I am very grateful to the Hon. W. Pember Reeves, Director of the School of Economics, for the facilities he has given me. Miss Dawson has done everything in her power to rectify my deficiencies of language and style.

JAN ST. LEWIŃSKI.

London School of Economics,
Clare Market, W.C.

January 1913.

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А. С. Личковъ. Формы землевладѣнія (Ирк. губ).
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in Quoting.

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of the land and Economic Conditions of the Vil-
lage Communities of the Governments of Irkutsk
and Jeniseisk. 1886.

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CONTENTS

CHAPTER I

	PAGE
Introduction	I

The insufficiency of documentary sources, *p.* 1.—The comparative method, *p.* 1.—The new material available for the study of the origin of property ; Russian inquiries ; other sources, *p.* 2.—The method applied in this study, *p.* 3.

CHAPTER II

The Origin of Property	5
----------------------------------	---

Definition of property, *p.* 5.—Property in land unknown to nomads, *p.* 6.—Limits between tribes do not exist in the beginning, and are formed only at a later stage, *p.* 6-7.—The existence of boundaries not to be confounded with the idea of property, *p.* 7.—Why is there no property in land among nomads? Man does not appropriate objects which are a free gift of nature, and which are abundant. Air—Pasture Meadows—Forests, *p.* 8-9.—How does property originate? The two sources of property, *p.* 10.—i. *Labour.* The incorporation of labour into the soil leads to the formation of individual property, *p.* 11.—Meadows, *p.* 11.—Forests, *p.* 12.—Homesteads, *p.* 12.—Arable lands pass through the stage of temporary possession, *p.* 12.—Shifting cultivation, *p.* 13.—The cultivator retains a field only until he has collected the fruits of his labour, *p.* 14-16.—With a more intensive cultivation the right becomes more durable and acquires the character of property, *p.* 16-17.—The clearing of the forest confers a permanent right to keep the soil, *p.* 17.—Different forms of property according to the quantity of labour incorporated in the soil, *p.* 18.—The influence of co-operation, *p.* 19.—Common irrigation and common ploughing does not prevent the formation of individual property, *p.* 19.—Does common clearing by large groups exist? *p.* 19.—Co-operation leads sometimes to the formation of associations. Seebohm's explanation of the origin of the village community, *p.* 21.—ii. *Individual Scarcity.* The appropriation of lands adjacent to the cultivator's dwelling, *p.* 22.—Those lands on which no labour has been expended come into private ownership where the scattered farm system exists, *p.* 23.—The characteristics of primitive property ; the rights of the individual, *p.* 25.—The rôle of the community, *p.* 26.—Lands which do not pass through the stage of individual property : Forests, *p.* 27.—Meadows,

p. 27.—Pasture, *p.* 28.—Individual property preceded the village community in Germany, *p.* 28.—England, *p.* 28.—Russia, *p.* 29.—India, *p.* 29.—Java, *p.* 30.—Other proofs against the communistic theory, *p.* 31.—The Roman law gives us a correct idea of the formation of primitive property, *p.* 31.

CHAPTER III

The Origin and Development of the Village Community 33

The two reasons for which the intervention of the community becomes necessary, *p.* 33.—The *preventive policy* on the *non-appropriated lands*. Meadows, *p.* 33.—Preventive measures acquire at a later stage an equalising character, *p.* 34.—Pasture. The necessity of limiting the grazing cattle leads finally to an equalisation of the pasture-rights, *p.* 34–35.—Forests used in the beginning without any restriction are subjected to a forestal economy. The limitation of wood every man can take, *p.* 36.—The *equalising policy* of the community on the *appropriated lands*. The right of free occupation entails a great inequality, *p.* 37.—This inequality which in the beginning is in harmony with the interests of all, leads with the increase of population to the formation of a landless proletariat, *p.* 38–39.—The struggle between the rich and the poor. The principles advocated, *p.* 39.—The struggle not merely verbal, *p.* 40. The interests of the numerically stronger party prevail, *p.* 40.—The struggle of classes similar in primitive and in modern societies, *p.* 41.—The passage from individual to common property is gradual. The three stages, *p.* 42.—i. *Restrictive measures*. Pastures, forests and meadows appropriated without any toil are open for the use of all, *p.* 42.—Passage from the scattered farm system to the village system, *p.* 43.—Arable lands left a few years in fallow are free for occupation, *p.* 43.—This stage is not to be found on meadows in which labour has been embodied, *p.* 44.—The right to sell the appropriated arable land and homestead is restricted. ii. *Allotments* of meadows and arable lands, (a) out of lands left without successors, *p.* 45.—(b) out of lands proprietors of which did not fulfil their social obligations, *p.* 46.—(c) out of all lands without discrimination, *p.* 46.—Lands occupied by the homestead subject to allotments, *p.* 47.—iii. *Periodical divisions*, *p.* 47.—The reasons for the existence of the scattered field system, *p.* 48.—The system, in the beginning quite simple, becomes with manuring more complicated, *p.* 49–50. The *Flurzwang*, *p.* 50.—How the community tries to avoid the economic disadvantages of periodical divisions, *p.* 50.—The development of common property is not simultaneous on all lands: i. because the necessity of divisions is not simultaneously felt. Earlier on meadows than on arable lands, *p.* 51.—The difference between more and less valuable lands. Meadows, *p.* 52.—Arable lands, *p.* 52.—ii. Because the difficulties met with are different. The discrimination according to the quantity of incorporated labour, *p.* 53.—Meadows and arable lands, *p.* 53.—Manured and cleared fields and meadows divided later than others, *p.* 54.—The homestead remains individual property in the village community, *p.* 55.—The development of the village community is not guided by an idealistic principle, but is determined by the necessities of daily life, *p.* 56.

CONTENTS

xi

CHAPTER IV

Conclusion	PAGE
						57

The evolution of property can be traced back to four simple elements. *The economic principle.* Man appropriates only land in which he has incorporated labour, or which is adjacent to his dwelling, p. 57.—Land only divided when scarcity of it begins to be felt, p. 58.—The economic policy of the community, p. 59.—*The principle of numerical strength,* p. 59.—*The growth of population* is the great dynamic force determining all the process of evolution, p. 60.—Statistical confirmation of this fact, p. 60.—Historical evidence, p. 61.—*The relation of nature towards human wants.* Natural conditions react on the forms of property, influencing the quantity of labour incorporated in the soil and the degree of scarcity, p. 61.—How natural conditions prevent the formation of village communities. Countries where the soil is covered with stones, p. 63.—Mountainous countries, p. 64.—Between the four elements analysed there is a causal relation, p. 65.—How the natural process of evolution is perturbed, p. 66.—*Criticism of other theories.* The racial theory, p. 66.—Are emigrants transplanting from one country to the other the old forms of property? p. 67.—The influence of imitation, p. 68.—The part played by legislation, p. 69.—The government is not able to modify the natural process of evolution p. 70.—The evolution of property is determined by causal laws, p. 71.

THE ORIGIN OF PROPERTY AND THE FORMATION OF THE VILLAGE COMMUNITY

CHAPTER I

INTRODUCTION

THE historian investigating primitive forms of economic life is usually obliged to be content with documents which give only a very incomplete idea of the economic structure of past centuries. Written by men who knew nothing of the problems which interest us to-day, and preserved only in fragments, they can never present a clear picture of what economic life has been in the past.

Consequently it has been necessary to attempt to supplement these defective documentary sources by others which might throw some light upon the problems. More and more attention has been drawn to the study of peoples who are to-day living in stages which we have left behind.

"We take a number of contemporary facts, ideas and customs," so wrote Sir Henry Maine, applying this method, "and we infer the past form of those facts, ideas and customs, not only from historical records of that past form, but from examples of it which have not yet died out of the world, and are still to be found in it. . . . Direct observation comes thus to the aid of historical inquiry, and historical inquiry to the help of direct observation."¹

¹ Sir Henry S. Maine, *Village Communities in the East and West*, 3rd ed., London 1876, pp. 6 and 7.

The application of this method has exercised a great influence on the ideas concerning the origin of property. The existence of the village community in India, Russia and Java has been one of the corner-stones of the theories of Maine and Laveleye, which stated that individual property has evolved only out of communal property.

To-day we are able to re-examine the problem of the origin of property under much more favourable circumstances, because the sources at our disposal are more complete. This is especially the case in Russia, whose government has for more than thirty years investigated the forms of property found among the different nomadic and settled peoples of Siberia.

These very detailed inquiries extend over an area not much smaller than that of Europe, and relate to peoples of the most different racial and economic conditions.

Jurists, economists, statisticians, political exiles and officials such as Prof. Kaufman, MM. Bolshakow, Dubinsky, Krol, Lichkow, Shcherbina, Shvetzow, Sieroszewski, and many others have given us splendid studies relating to the forms of ownership among the Kirgizes, Buriats, Yakuts, Russian peasants, etc.

The value of the Russian material relating to this problem is especially great because it does not only describe the forms of property in existence at a certain stage, but gives us the opportunity to observe their evolution step by step.

We must say with regret that our knowledge of the forms of property existing among native races outside those of Russia is far from satisfactory. With the exception of India and Java there is an absolute lack of special inquiries. The remarks of travellers and of ethnographers, stating simply that common or individual property prevails in a certain country, making no distinction between the forms of ownership of

meadows, pastures, forests and arable land, are far too superficial.

Much more valuable is the evidence relating to the history of property in Europe; the studies of Maurer and those of the students of the English village community have been of great use to us. In many instances they helped me to verify my general conclusions, and it appears to me that in this respect our new knowledge of the development of forms of property in Siberia throws new light on these historical problems.

The method I have applied in this study is the same as that which is generally used in economic theory. I started from the assumption that man's relation towards material goods is determined by the *economic principle*, the desire to obtain the greatest possible quantity of objects necessary for the satisfaction of his wants, with the least possible effort. I tried always to find out what every man would do according to this principle in a given situation. Having thus arrived at some common-sense theories, I investigated how far they were in accordance with the facts at our disposal.

It is not from *à priori* considerations that I adopted this economic attitude. A close study of the problem convinced me that only by applying this method could a clear understanding of the investigated phenomena be attained. It enabled me to reduce all the process of formation of property to four simple elements—

1. The economic principle.
2. The principle of numerical strength.
3. The growth of population.
4. The relation of nature towards human wants.

I trust that after reading the book the student will find this enumeration less fantastic and mysterious than it may seem at present. In the Conclusion I shall explain in detail how the combination of these elements produces different forms of property.

This little book aims exclusively at giving the main

lines of the evolution of property. Those interested more fully in the details brought forward by the Russian inquiries will find them developed in the excellent work of Prof. Kaufman entitled *Ruskaïa Obshchina*¹ ("The Russian Village Community"). I think that a translation of this book would be of great use to the historian and economist not acquainted with the Russian language.²

¹ Moscow, 1908, 455 pages.

² There is another very good Russian book dealing with the same subject, Mr. Kachorowski's study entitled also *Ruskaïa Obshchina*. Prof. Kaufman's book is, however, more exhaustive, as it contains a very detailed description (216 pages) of the economic and juridical conditions of the nomadic tribes living in Russian Asia.

CHAPTER II

THE ORIGIN OF PROPERTY

It has been said by somebody that Economists understand the phenomena they investigate so long as they do not attempt to define them. This is not without truth, and some definitions tend to obscure rather than to elucidate. But though many attempts at definitions have been unsuccessful, it is none the less true that vagueness of language increases the difficulties of clearly understanding any problem.

For instance, the fact that so many authors speak of common property among nomads, is simply due to the fact that they have not tried to learn the characteristics of property. I shall therefore begin this study with a definition.

What is property ?

It is the permanent possession of an object, conferring the exclusive right to use it or to dispose of it. The simple use and exclusiveness are not sufficient characteristics to constitute property. Football players in a public park have, while they are playing, the exclusive right to use the place they occupy, as indicated by the rope which surrounds their ground. They are not, however, proprietors of it, because their right is not permanent and does not confer the power to dispose of it, by sale, transfer or bequest. The same applies to the occupier of a room in a hotel, a seat in a library or railway carriage, etc.

The existence of permanent limits should not be confounded with the conception of property. States, though separated one from the other, do not own their

respective territories. Only the citizens or public bodies as far as they have the right to dispose of certain parts of the land are proprietors of it.

The right to own land as property has not always existed. Among pure nomads we find it absolutely lacking. Wandering from place to place and remaining in one spot only so long as it affords food for their cattle, they have no further interest in it once it has been left behind. "The primitive nomads," writes Mr. Shcherbina, "who wander from north to south over hundreds of versts, and are constantly on the move, are in no way attached to the land, to this or to that locality, and in consequence no ownership of land exists among them."¹

To the **Yakouts** the right to own land is a thing they do not understand even to-day. Speaking of some merchants who bought a forest, they said, "They are quite stupid men. Why do they spend money? Is there not wood enough all round to be had for the taking?"²

"The nomads," writes Gierke, "do not understand true ownership of the soil; the land has for them no more value than the air or the sea for us."³ Hildebrand gives many examples in proof of this opinion.⁴ Gumplowich expresses himself in the following manner with regard to primitive tribes: "This common property which the horde is supposed to have in relation to the land occupied or rather settled by its members, is in reality not property but simply a common use of the soil."⁵

At the stage of pure nomadic life not only property, but even limits between the different tribes do not

¹ Kaufman, p. 91.

² Sieroszewski, *12 lat w kraju jakutów*, p. 273.

³ Gierke, *Rechtsgeschichte der deutschen Genossenschaft*, I. p. 53.

⁴ R. Hildebrand, *Recht und Sitte auf den primitiven wirtschaftlichen Kulturstufen*, 2nd ed., 1907, pp. 45, 46.

⁵ S. Gumplowich, *Grundriss der Sociologie*, p. 113.

exist. Among the **Kirgizes**, who are still in this state, all territory is considered a gift from Heaven, free for the use of all nomads,¹ and even of strangers.²

The **Yakouts**, when asked to indicate the limits of their territory, answered, "Who knows it? We think that our land is there where we live."³

Among the **Buriats** the pasture is open for the use of all, natives and strangers.⁴ In bad years they take their cattle to graze on the territory occupied by the Tunguses, and no one offers any objection.⁵

Among hunting peoples we find the same phenomenon. The **aborigines of Altai**, composed of Chuets and Tartars, who live hundreds of miles away one from the other, roam often without restriction over their respective territories.⁶

When at a later stage limits begin to be formed between the different groups, each member within the group keeps the same freedom in the use of the soil. This we notice all over the world. Dargum, with reference to nomadic peoples in general, writes, "All may use the pasture as they like; the community has not the right to dispose of it."⁷

It is thus quite erroneous to speak here of common property, as some authors do. It is only by confusing the existence of boundaries with the idea of property that this mistake is possible. The relation between the community and the soil among nomads is, as the German jurist Gierke points out, rather similar to the international right which a state has to its territory, and not to the right it has over a domain.⁸

So long as the right to dispose of a thing does not

¹ Kaufman, p. 61, 62.

² Kirg., VI. p. 35.

³ Sieroszewski, s.c., p. 273.

⁴ Krol, p. 64.

⁵ *Ibid.*, p. 65.

⁶ Shvetzow, p. 138.

⁷ Dargum, Dr. Lothar, "Ursprung und Entwicklungs-Geschichte des Eigentums," *Zeitschrift für vergleichende Rechtswissenschaft*, Vol. V. p. 59.

⁸ O. Gierke, s.c., I. p. 57.

exist we cannot speak of property, and while every member is free to take as much land as he wishes, and where he wishes, it is impossible to call the land common property.

It is true, however, that in exterior relations the nomadic community undertakes at times the duties of proprietorship, and disposes of the land. So, for instance, among the **Kirgizes** it is not the individual but the group which rents or sells land to the Russian peasant.¹ But this is not the usual custom, it only occurs when nomadic tribes come into contact with more developed forms of economic life. It is then more convenient for the group to dispose of the land than for the individual, but the normal internal relations are not affected by it. To describe this stage as one of common property would render all the subsequent evolution unintelligible.

Why among nomads is there no property in land? To explain this I must make some theoretical remarks. Every appropriation necessitates a certain effort, consisting in separating, keeping and defending the goods. It is clear that everybody will try to avoid this trouble, in so far as by so doing he does not deprive himself of the satisfaction of his wants. Now there is not the slightest necessity for appropriating objects which in the case of loss can be replaced without any difficulty. This is the case with all goods which are a free gift of nature, and which are at our disposal in a quantity surpassing our wants.

We do not object that our neighbours or other people breathe the air of our garden. We do not protest if balloons and aeroplanes occupy it. How is this indifference to be explained? Simply by the fact that air exists in such large quantities in relation to our wants that the loss even of large portions does not affect our well-being. We do not experience any difficulty in finding always the necessary quantity of it.

¹ Kirg., IV. p. 31.

This explains why in the primitive stages of society, when land was very abundant, ownership of the soil did not exist. So long as the nomad was sure that in his wanderings he could find the necessary pasture, it was not to his interest to take the trouble to appropriate any part of it. Pasture-land had not greater value for him than air has for us.

For the same reason among half-nomadic peoples, where the cutting of grass is already developed (it is the first stage in the passage to settled life), meadows in which no labour has been incorporated are used freely everywhere. "It is clear," says Krol of the **Buriats**, "that in localities where meadows abound and the amount of hay needed is small, it is unnecessary for any one to undertake the trouble of appropriating them. Each man cuts hay wherever and in whatever quantity he pleases."¹

The inhabitants of the **Altai** when asked why they do not appropriate the meadows, replied that, having more of them than they needed, they experienced no difficulty in replacing meadows they abandoned by others equally good.² Among the **Kirgizes** of the north and south each man cuts as much grass as he requires, without restriction. There is such an abundance of meadow-land that they cannot mow it all.³

We observe the same with regard to forests. In Siberia, as long as there is a superfluity of wood, the peasants not only take it without any restriction wherever they like, but burn down large portions of the forest to facilitate agriculture, and nobody protests against it. No limits are observed between the respective territories, and members of far-situated communities are not prevented from using the forests of other villages.⁴

¹ Krol, p. 9.

² Shvetzow, pp. 141, 142.

³ Kirg., IX, notes, pp. 8 and 50.

⁴ Kachorowski, 165 ff.; T. and T., p. 69.

How out of this state does property originate? Here again a short theoretical digression will facilitate the understanding of the problem. We have reason to appropriate only such objects as in the case of loss can only be replaced with a certain effort, or which cannot be replaced at all. This is the case with goods which are the product of our labour or which are scarce.

If we lose an object which has been produced by us, we must to replace it make another one. If the commodity at our disposal exists only in a limited quantity we often cannot replace it at all, or only with great difficulty. In both cases we are exposed to an effort in comparison to which the effort of appropriation is relatively small, and for this reason economically rational. Of two evils it is the smaller one.

Thus the *desire* to appropriate an object can only arise from these two causes, *Labour* and *Scarcity*. The desires of the different individuals lead, however, to the formation of property as a socially recognized institution only when they are in harmony one with the other. If they are antagonistic, if appropriation by one member means loss for another, then a collision of the different interests must result, and to prevent this the community usually restrains or prohibits their manifestation, as in the case of theft, for instance.

The desire to appropriate is in accordance with the interests of all, if it originates from *labour*, or a special kind of *scarcity* which we will call *individual* and define later. The same desire will lead to antagonism in the case of general scarcity, which we will term *social*.

So long as land and raw material are abundant, as is the case under primitive conditions when the population is thin, the labourer, by making use of any part of the soil, or of the materials, deprives no one else of the satisfaction of his wants. As each man desires to keep the objects into which he has incorporated his labour, private property with regard to those objects becomes

a socially recognized institution. This is why, even among the rudest peoples, weapons, implements, decorations, and other objects identified as the products of a man's labour are recognized as his.¹

The study of the development of ownership of land will confirm this general law. The nomadic and hunting stages, where a quite simple use is made of the products of the soil, are very extensive forms of economic life, possible only where the area at the disposal of each man is very great. With the increase of population it becomes necessary to pass from simple nomadic life to more intensive systems.² These changes necessitate an incorporation of labour into the soil, and thus lead to the establishment of ownership of land.

This property will be individual where the labour unit is an individual or a family; it will be common where the labour unit is a collective group. In the beginning of agriculture the first appears to be the general rule. We will therefore examine this case, and afterwards see how co-operation influences the forms of ownership.

The process by which property develops out of labour is different for meadows, forests and arable lands.

Meadows, as we have seen, are in the beginning used freely everywhere. But when with a greater density of population, the damage done by the grazing cattle becomes more destructive, it is necessary to prevent it by constructing fences.³

Among the **Buriats**, where enclosing is very much developed, the individual by this means acquires the right of property.⁴

Besides these enclosed meadows there are others in

¹ E. Westermarck, *Origin and Development of Moral Ideas*, Vol. II. p. 41.

² Kaufman, pp. 45 *et. seq.* ³ Shvetzow, p. 146; Krol, p. 11.

⁴ Krol, p. 20.

which labour has been embodied, as for instance those which have been manured, drained or cleared ; all these are private property.

It is a characteristic fact, proving the close relation between labour and property, that where individual, hereditary property exists with regard to those meadows which have been manured, cleared or drained, those others which remain a free gift of nature are "nobody's land," so long as they exist in abundance. We find this, for instance, among the natives of the **Altai**.¹

With regard to forests, the incorporation of labour into the soil is exceptional. This happens sometimes in Siberia, and a peasant who takes the necessary precautions for protecting a part of the forest from fire becomes the proprietor of that part ; if he ceases to take these precautions he loses his right of property.²

The lands occupied by the homestead are everywhere hereditary property of those who established them.³

In the case of arable land, the formation of property is more complicated than in that of meadows, forests and homesteads. The reason of it is simple. Labour expended on these latter either does not affect the natural forces contained in the soil, as in enclosing or housebuilding, or it increases those forces, as in manuring and draining ; while labour expended on arable land exhausts the soil. The productiveness of meadows and forests does not diminish in consequence of the labour expended upon it, whereas, with every year of cultivation, the productiveness of arable land is less.

Yet another difference must be kept in mind. The labour incorporated in the meadows, homesteads, etc., consists, to a great extent, of what we call capital investment. The man who has once drained and cleared his meadow or built his house, does not need

¹ Shvetsow, p. 214.

² *West Siberia*, V. pp. 129, 130.

³ Kachorowski, p. 179 *et seq.*

to repeat the operation, at least for a certain length of time. The labour of the primitive agriculturist, such as ploughing and sowing, consists, to a great extent, of annual expenses, of operations which are yearly repeated.

Thus the proprietor of the meadow will be anxious to retain it, because otherwise he loses his capital investment. The cultivator, on the contrary, as far as he is embodying an equal amount of labour every year, has his expenses repaid after the harvest. He will find it to his best interest to abandon the exhausted soil, and he will occupy a new portion. This explains why arable land, unlike other land, passes through a stage of temporary possession.

The shifting cultivation marks the first stage of the progress from pastoral and hunting to agricultural life. It characterizes primitive agriculture all over the world. I quote here only a few examples, and refer the reader who desires fuller information about this agricultural system to the book of Hildebrand.¹

We find it on the Steppes among the **Kirgizes**,² the peasants of **South Russia**,³ etc. The cultivator raises one or two crops from the land and then relinquishes it.

We find it also in wooded countries. In **India** the tribes which practise it commence by selecting a suitable site with not too steep a slope, and cut down all the smaller trees, shrubs and other vegetation, which are heaped on the ground to dry during the hot season. The larger trees are killed by ringing, the rest is burned as soon as it is dry. When the rains fall, the ashes mixed with seed are dibbled into the ground. One crop is taken, perhaps a second; and then the tribe moves on to a new locality, returning to the first only after a period of time which

¹ Hildebrand, *Recht und Sitte*, 2nd ed. 1907, pp. 47-51.

² Rumianzew, p. 169; Kaufman, pp. 24, 25.

³ W. W., p. 8.

has allowed the vegetation to grow up again. It may be twenty, thirty or forty years.¹ Similar conditions exist in the most thinly populated districts of **Java**.²

This system once prevailed in the forest regions of **Russia**, and in the north it may be found to this day.³ It seems to have characterized the **Germanic** agriculture in the time of Tacitus.⁴

Under such conditions temporary possession must arise, and not property. While there is abundance of land,⁵ the cultivator is only interested in retaining the soil he has tilled so long as some of his labour on it remains unremunerated. If he be deprived of a field which he has ploughed and sowed, before he has harvested the crop, he will be obliged to repeat the labour. But once he has gathered the fruits of his toil, and abandoned the exhausted field, which he may never see again, it is of little moment to him whether it is occupied again or not.

In accordance with this economic reasoning, a form of tenure originates intermediate between an absolutely free use of the soil, and property, giving to the cultivator the right to retain a field until he has collected from it the fruits of his labour.

Among the **Kirgizes** of the district of Aktubansk, the arable land belongs to the cultivator only so long as he ploughs it. Once abandoned, it can be used by

¹ Baden-Powell, *Land Tenure in India*, Vol. I. p. 116.

² E. de Laveleye, *De la propriété et de ses formes primitives*, 5th ed., p. 61.

³ Kaufman, p. 231; Kovalevsky, *Modern Customs and Ancient Laws of Russia*, pp. 77, 78.

⁴ W. Roscher, *Nationalökonomie des Ackerbaues*, 12th ed., 1888, p. 80.

⁵ This phrase may seem in contradiction to my previous assertion, that with the growth of population the nomad has not land enough for continuing his pastoral life. This contradiction is only apparent, because the area which is insufficient for a nomadic population, after the passage to agriculture is superabundant.

any one, either to cut the grass on the fallow or for new cultivation.¹

In the same district the poor people generally sow on the land which has before been ploughed by the rich, because it requires less labour than new land. The rich always plough the virgin and most fertile soils.² Apparently a similar state of things existed everywhere on the Kirghiz Steppes before the Russian invasion.³ The same has been observed among the peasants of South Russia.⁴

In the **Altai**⁵ and among the **Tartars**⁶ of the district of Simferopol each one retains his right to a piece of land only so long as he uses it ; in fact, once abandoned or left to lie fallow, any one else may take it.

Among the **Buriats** the cultivator who removes the dividing fence and goes to another place, loses all connection with the old land, which is thus free for occupation.⁷

In the north of European **Russia** we find the same state of things ; if a peasant ceases to till a field on which no capital investment was made, any other man without asking permission or informing him is at liberty to take it.⁸

In the old **German Mark**, according to Maurer and Fustel de Coulanges so long as the system of annual shifting of cultivation prevailed there existed only the right of temporary possession.⁹

Among the **Gês** of South America, the **Zulus**, the natives of **Equatorial Africa**, **New Guinea** and

¹ Kaufman, p. 152.

² Kirg., VII. p. 25.

³ Grodekow, p. 102.

⁴ W. W., p. 8.

⁵ Shvetzow, pp. 157, 158.

⁶ Dr. Victor Utz, *Die Besitzverhältnisse der Tartarenbauern im Kreise Simferopol*. Tübingen, 1911, p. 42.

⁷ Krol, p. 49.

⁸ Kaufman, p. 271.

⁹ Maurer, *Einleitung zur Geschichte der Mark-, Hof-, Dorf- und Stadtverfassung*, 1854, p. 97, § 102. Fustel de Coulanges, *Recherches sur quelques problèmes d'histoire*, p. 283.

other partly agricultural tribes, the custom prevails of a field belonging to an individual only so long as it is tilled by him.¹

In **Ancient Rome** the occupation of the *ager publicus* did not confer any right of property, but only a mere possessive right.²

The extensive system of agriculture, where it is sufficient to burn down the forest, plough the land a little and sow the corn, or as in the steppes of **Russia**, to do merely the latter, is only possible where there is great abundance of arable land. A field, in forest districts where shifting cultivation is practised, can only be used again for crops when the trees have grown, that is after twenty to forty years in the **Indian Jungle**,³ and after forty to sixty years in **Russia**.⁴ Thus during the lifetime of one generation it is not cultivated more than once.

With the increase of population this extensive system must be abandoned and replaced by an intensive one.⁵ "Where the population is dense," says Baden-Powell, "and space limited, the rotation is reduced to ten or even seven years."⁶ Much labour is expended on the clearing of the forests,⁷ and the fallow is not left in its natural state, but begins to be manured.⁸ Parallel with this development the relation of the cultivator to the soil becomes more durable. The annual crop no more remunerates his labour, only after a few years is his capital investment redeemed.

In accordance with this economic interest of the cultivator, the old right to occupy a soil once it is not tilled begins to be more restricted. Every one can keep his field, not only so long as he uses it, but so

¹ Hildebrand, p. 45 *et seq.*

² E. Laveleye, *Primitive Property*, p. 165.

³ Baden-Powell, *Land Tenure*, I. p. 116.

⁴ Bolshakow, p. 18.

⁵ Kaufman, p. 231.

⁶ B.-P., *ibid.*, I. p. 116.

⁷ B.-P., *ibid.*, p. 114.

⁸ Bolshakow, p. 21.

long as it may be presumed that all his labour upon it has not been remunerated.

So, for instance, among the **Kirgizes** of the district of Ustkamenegorsk the fallow may be ploughed again only by the old occupier, so long as he does not explicitly abandon his right to it.¹

In the district of Kustonaïsk the fallow belongs to the cultivator so long as some traces of his labour upon it are visible; he only can cut the grass upon it. But this right is not perpetual; if the fallow has not been tilled for ten or twenty years it becomes free for occupation by any one.²

The **Buriats** have similar regulations; after two, three, six, or fifteen years of fallow the land may be occupied.³

With a further intensification of agriculture this temporary possession acquires the character of a permanent right of property. It establishes itself everywhere when the shifting cultivation is abandoned. This, however, is not due exclusively to the incorporation of labour, but also, as I will explain it below, to individual scarcity (*vide* p. 25).

As clearing the forest requires a great expense of labour, it usually confers a permanent right to keep the soil; this state of things is found among the **Russian peasants**,⁴ the **Finns** of North Russia,⁵ the **Buriats**,⁶ the **Javanese**,⁷ the aborigines of **North East Africa**,⁸ etc.

In old **Russia** it was the custom to say that the land was property "as far as the axe, the scythe and the plough go."⁹

¹ Kirg., IX. pp. 27, 28.

² Kaufman, p. 153.

³ Krol, pp. 46-49.

⁴ W. W., pp. 19, 22.

⁵ Bolshakow, p. 33.

⁶ Krol, p. 48.

⁷ *Eindresumé van het . . . onderzoek naar de Rechten van den Inlander op den grond on Java en Madoera* (B.M. 5319, g. 22), I. p. 64.

⁸ Hildebrand, p. 46.

⁹ Pawlow-Silwanskij, p. 113.

In the old **German Mark** the law conferring the right of ownership on the one who cleared the land is traceable to the first settlements of the Germans.¹

In **India** the man whose hands and funds have performed the severe and protracted labour of clearing the dense forest and jungle regards himself, and is regarded by others, as entitled to keep the land. Five hundred years B.C. the institutions of Manu recognized this principle. We read there: "The sages declare a field to belong to him who first cleared away the timber and a deer to him who first wounded it."²

The intimate relation which exists between labour and the formation of property is best illustrated by the fact that in the same communities the land is subject to different rules according to the labour which was necessary to prepare it for cultivation.

"Examining all the above facts," writes Mr. Krol about the **Buriats**, "it is impossible not to notice that they differentiate carefully between those fields the tillage of which required much labour (clearing of stones, forests, etc.) and those fields the occupation of which has not necessitated a great amount of it. With regard to the first the right of property is recognized without any discussion; the second class of fields only belong to the occupier so long as the enclosures stand round them, or a little longer: only in exceptional cases are they considered as property."³

The intensification of labour thus contributed to the development of a closer relationship between man and the occupied soil. With regard to meadow and homestead land individual property originated directly, once labour had been expended upon them. On arable lands it was preceded by an intermediate stage of temporary possession.

So the old theory, so severely attacked by Maine, that occupation first conferred a right, against other

¹ Maurer, *Markenverfassung*, p. 166.

² Baden-Powell, *Land Tenure*, I. p. 227.

³ Krol, p. 48.

members of society, to an exclusive but temporary enjoyment, and that afterwards, while remaining exclusive, it became perpetual, finds here its confirmation and natural explanation.

Hitherto we have considered the influence of labour on the formation of property, supposing the agricultural work to be done either individually or by families; let us now see what form of property arises when co-operation is necessary from the beginning.

Does co-operation extend only to a part of the cultivator's labour, then property remains individual; so, for instance, among the **Kirgizes**, where irrigation works require a common effort, arable fields are the private, hereditary property of each labourer.¹ He is entitled to dispose of his land according to his wishes, and is merely restricted in this, that he may only sell it to members of the community.² No equality whatever exists in the possession of land, every one is free to occupy as much as he wishes and to use water according to his needs.³ Only when a deficiency of water begins to be felt, the community limits the share every one is entitled to use.⁴

Among the **Kirgizes** also we find sometimes common ploughing. A few cultivators join their funds in order to buy a plough, and then use their horses together in one team; but all other operations are performed individually and the common relations of the labourers cease when the ploughing is over.⁵

The necessity of joint labour in clearing a forest has often been adduced to explain why primitive property must have been common. So far as our sources allow us to examine this point, nowhere do we find a convincing evidence proving common clearing by large groups.

¹ Kirg., VII. p. 31; Rumianzew, pp. 168, 169.

² Kirg., IX. p. 25. ³ *Ibid.*, p. 26.

⁴ *Ibid.*, p. 27.

⁵ *Ibid.*, IX. p. 24; Kaufman, p. 170 ff.

“The common clearing” in **Java** of which Laveleye speaks¹ consists in reality in a mutual help of three or four households. Every one cultivates his land individually, and there are no traces of a village community.² We shall see later that in **Java**, as everywhere, private property was the primitive form of ownership. In European **Russia** I have found only one community where common clearing seems to have existed. It is a quite exceptional case,³ and I do not know how far it is true. In **India**⁴ and all over **Siberia** the individual is the first clearer.

But even if clearing by large groups existed it would no more lead to the formation of common property than common irrigation. The individual cultivating the soil would acquire the right of property.

Common property only originates where all labour, or by far the greater part of it, is due to co-operation. It originates, for instance, in the case of enclosed meadows where, with the exception of making the fence, no labour is incorporated in the soil. Among the **Buriats** meadows are, when it is more convenient, enclosed by associations and not by individuals. Every one is free to become a member of these associations and leave them when he likes ; the quantity of hay which each may cut is or is not limited, or is sometimes distributed according to the length of fence constructed.⁵ In the **Altai**, where meadows have been enclosed by several families, they mow the hay together and divide it equally among the cutters.⁶

With regard to arable land, the cases where all the labour—ploughing, sowing, harrowing, beating, etc.—is performed in co-operation, are very rare. We find some examples of it among the **Kirgizes**. Small associa-

¹ Laveleye, *De la propriété*, s.c., p. 61.

² *Eindresumé*, s.c., II. Bijlage B., p. 22 et seq.

³ W. W., p. 77 ; B. M., 5319. g. 22, Vol. II.

⁴ Baden-Powell, *Land Tenure*, II. p. 224.

⁵ Krol, pp. 12, 13.

⁶ Shvetzow, p. 154.

tions of four, five, or six families own the land and divide the produce among them.¹ Thus we see that co-operation either in no way affects individual ownership or leads to the formation of free associations which are similar to our co-partnerships, but have nothing in common with the village community.

In the light of these facts, the attempt of Seeböhm to explain the rise of the English village community from the common ploughing, is very far from convincing. The eight-oxen team might account eventually for the existence of common property between a few families necessary to compose this team, but not for the formation of large associations like the village community.²

But, above all, this theory must be rejected on methodological grounds. If we wish to understand the origin of an institution we must find the *cause* of it—in other words, an element which explains the existence of uniformities. Now it is a fact that the village community exists in countries where common ploughing is not the rule (Russia, Germany), and that frequently, where common ploughing is found (Kirgizes), there are no traces of the village community. For this reason the eight-oxen team can only be adduced as an explanation of the *particular* system

¹ Kirg., I. 137 ; II. xiv., xv. ; Kaufman, p. 172.

² The explanation of Seeböhm is also subject to purely historical criticism. "Indeed," writes Vinogradoff, "it would be strange to assume that the Angles, Saxons and Jutes, from the very first arranged their settlements on a uniform plan, and started everywhere with the eight-oxen team ; it would seem more natural to surmise a good deal of variety in the beginning and the use of less complicated instruments. As a matter of fact the glimpses afforded by the evidence at our disposal point in this very direction. . . . Indeed, we hear of smaller teams, and, curiously enough, ancient pictures of ploughs represent them as drawn by four or even two oxen. It is only from the eighth to the eleventh centuries that the eight-oxen team was considered best adapted to the requirements of the soil and to the shape of the fields."—*The Growth of the Manor*, 2nd ed., pp. 163, 201.

of divisions in England and Wales, but cannot throw light on the origin of the village community itself.

We may conclude, therefore, by saying that from a state of no property, individual ownership generally originates once labour has been incorporated in the soil; in exceptional cases we find that not individuals but free associations, are the owners of the soil.

24 We pass now to the examination of the second source of property, which I called *individual scarcity*.

With the intensification of economic life man becomes bound to the soil, and the land surrounding his dwelling acquires for him a special value. If the nomad does not find convenient or sufficient pasture or meadow-land near his tent, he easily removes it to another place. The cultivator who possesses a permanent dwelling, and who must perform various other labours in his homestead, is not able to move so easily from one place to another. The more remotely his lands are situated the more time he will lose going to and fro, and finally his cultivation will suffer. The more intensive agriculture becomes the less time the cultivator has to spare, and the stronger is his desire to keep all lands surrounding his house in his permanent exclusive possession. In Siberia, where agriculture is not yet very far advanced, we find the peasant mowing his grass at a distance of fifty miles, and even more, from his dwelling; ¹ but with intensification of agriculture this distance becomes less and less.

Where men do not live in villages but in scattered farms, the cultivator, by appropriating all land adjacent to his dwelling, does not deprive any one else so long as land exists in plenty. Every new settler finds land enough to establish a farm, and each has the same desire to keep all the land surrounding the homestead in his exclusive permanent possession.

In accordance with this we find that where the scattered form of settlement exists, *lands on which no*

¹ Kaufman, pp. 383, 384.

MAP II.
THE VILLAGE SHIROKIJ LOG
IN THE GOVERNMENT OF
YENISEI
(SIBERIA)



- Arable Lands
- Meadows
- Forests
- Waste Lands
- Homesteads

This map serves to illustrate the primitive form of settlement—the scattered farm system (Einzelhof)—out of which the village system (Dorfsystem) originates (*vide* pp. 23 and 43).

It shows also that the first settler has already his arable land in scattered pieces and not in one part (*vide* p. 49).

(This map has been reproduced from the Report of the Ministry of Agriculture entitled: *Obsor rabot po mejevaniu za Uralom*. St. Petersburg, 1910.)

labour has been expended, as well as arable fields and fertilized meadows, come into private ownership.¹

I call the source from which property in these lands originates *individual scarcity* because, though from a social point of view they are in abundance, they are scarce for the cultivator in whose vicinity they are situated. Each man knows that if any one took possession of his meadow or pasture he would be obliged to seek another at a distance, and even if the quality of the land were the same, it would be in a worse, *i.e.* more unfavourable, situation.

We find the scattered farm system all over Siberia ; the Russian cultivator chooses a convenient place in the forest, clears it, builds his house, and tends his farm with only the assistance of his family.² This scattered form of settlement seems to be characteristic of primitive agriculture, and so long as there is plenty of land it is the most convenient. Living in villages, the inhabitants are obliged to have a part of their fields, meadows and pastures at a distance from their homes ; in the scattered farm system these lands are adjacent to the homestead. This latter system existed in European Russia before the village ;³ it is a characteristic feature of Celtic history,⁴ and it seems that it must also have prevailed in the old German Mark.⁵

¹ Kaufman, p. 246.

² *Vide* detailed description, Kachorowski, p. 84 *et seq.*

³ Simkovich, *Die Feldgemeinschaft in Russland*, 1897, p. 3 *et seq.*

⁴ Vinogradoff, *Growth of the Manor*, 2nd ed., p. 91, note 20.

⁵ Seeböhm writes : What struck Tacitus in the economy of the Germans (and by Germans he obviously meant the *free tribesmen*, not their slaves) was that they did *not* live in cities like the Romans. "They dwelt," he says, "apart and scattered as spring, or plain, or grove attracted their fancy."—*The English Village Community*, p. 338.

In accordance with this description of Tacitus, the old German scholars such as Moser and Kindlinger assumed that the scattered farm system was the original form of settlement and that the villages were only of later origin.

Maurer rejected this theory because he considered it as impossible that cultivators would have passed from the convenient farm system

Where, as in Siberia, the scattered farm system is the dominant type, the meadows, pastures, and even the forests adjacent to the peasant's dwelling, belong exclusively to him. He surrounds all his holding by a fence, or symbolizes by marks upon the trees his right to a given area.¹

The same custom existed in the old German Mark. It was one of the rights of the "Markgenosse" to appropriate land simply by enclosing it,² or by manifesting in some other way his desire to keep it.³ This occupation was made in a ceremonial manner which is described by Maurer.⁴

Among half-nomadic peoples like the **Kirgizes** and **Buriats**, who live during the winter in settled scattered

to the inconvenient village system.—*Einleitung*, pp. 2-3. This passage, however, far from being an impossibility, is taking place in Siberia and among the Cossacks of South Russia. In the second chapter I will describe and explain this process.

¹ T. and T., p. 81; Kaufman, p. 248.

² "Die Aneignung geschah meistens durch eine Einfriedung, Einträgung, Umzäunung oder eine Abmarkung des in Besitz genommenen Landes."—Maurer, *Markenverfassung*, p. 163.

³ It may perhaps be objected to this, that here, too, labour is embodied into the soil, and that in consequence the formation of property is due to this element and not to scarcity. I think, however, that a distinction must be made between the two cases—

1. Where a cultivator clings to his land because he has incorporated labour into it.
2. Where he expends labour on the construction of boundaries because the land is scarce.

In the first case labour is the cause of property, in the second case it is only the symbol.

⁴ "Eine solche feierliche Besitznahme hatte im Jahre 955 in der Gegend von Regensburg statt, eine andere noch um das Jahr 1030 im Kloster Scheiern. . . . Es war damit die Bezeichnung der Grenzbäume (*incisio arborum*) das Anzünden eines Feuers (*ignium ustio*) und der Bau eines Hauses (*domorum edificatio*) wahrscheinlich eine feierliche Grundsteinlegung als Zeichen der Besitzannahme verbunden."—Maurer, *Markenverfassung*, p. 165.

groups,¹ the meadows² and so-called "Koi-bulyaki" which surround the dwellings and on which the sheep graze,³ are very often held in individual ownership.

Among hunting peoples it appears that the land situated round a hut is also private property. Prof. Kaufman, for instance, points out this is the case with regard to the natives in the district of Turinsk (gov. Tobolsk).⁴ A similar opinion is expressed about the Australian tribes, but, on the whole, too little is known of this matter for us to arrive at any definite conclusion.

The desire of the cultivator to keep in his exclusive permanent possession the lands surrounding the dwelling, applies as well to meadows, pastures, etc., in which no labour has been embodied, as to arable fields, manured meadows, etc. It is even stronger as regards this second kind of lands, because the greater the labour which must be embodied into the soil, the greater generally the inconvenience of a distant situation. So, for instance, manuring is only economic if the fields are situated near the farmhouse, because otherwise the expenses—the transport of the dung—are greater than the returns.⁵

Individual scarcity strengthens so on arable fields the effects of the incorporation of labour in the soil, and contributes to give to temporary possession a permanent character.

Private property which arises out of the two sources—labour and individual scarcity—has all the attributes which this right possesses to-day.

It gives to the proprietor the exclusive right to use and to dispose of the appropriated thing. Among the **Kirgizes** the property is hereditary,⁶ and we have different examples to prove that they may sell and

¹ Kaufman, pp. 93, 94.

² Kirg, I. pp. 123, 129; IV. p. 25; VI. p. 30; IX. p. 21; XI. p. 35, etc.

³ Kaufman, pp. 110, 111,

⁴ *West Sib.*, XIII. p. 128.

⁵ Bolshakow, p. 22,

⁶ Kirg., I. p. 64.

bequeath their land.¹ The same applies to the **Buriats**.²

The Siberian *peasant*, once he has occupied the land, considers himself the absolute proprietor of it. He can do as he likes with it, can sell or rent it, give it away or bequeath it.³ These are just the same rights as the **German** cultivator possessed in the olden times.⁴

In **Java**⁵ and in European **Russia**⁶ the first clearer of land acquired a *hereditary* right to it.

Thus we see it is in the hands of the individual and not of the community that all proprietary rights are concentrated. If there are any common regulations it is simply to prevent a collision between the antagonistic interests of cattle-breeders and cultivators as they exist among half-nomadic peoples ; thus no one is allowed to plough in the vicinity of water-troughs⁷ or to till the meadows, etc.⁸ But even here it seems that in the beginning all these restrictions were the result of an understanding between the individuals interested.⁹

At this stage of evolution the rôle of the community consists exclusively, besides these police regulations, in the reservation of the territory for its members and the non-admittance of strangers¹⁰ ; this is simply a right which corresponds to the sovereignty exercised by our modern State over its territory.

Not all lands, however, pass through the stage of individual ownership. Meadows, forests and pastures in which no labour has been incorporated and which are adjacent to the scattered dwellings of the cultivators

¹ Kirg., VI. pp. 30, 37.

² Krol, p. 28.

³ Kaufman, p. 250 ; Kachorowski, pp. 97, 98 ; T. and T., pp. 32, 33.

⁴ Maurer, *Einleitung*, p. 205.

⁵ *Eindresumé*, I. p. 64 ; II. p. 159.

⁶ W. W., pp. 19, 22.

⁷ Kirg., IX. p. 28 ; Krol, p. 46.

⁸ Krol, p. 48.

⁹ Kaufman, p. 154.

¹⁰ *Ibid.*, p. 263.

have evolved from an absolutely free use directly to different forms of regulation.¹

These lands situated between different farms have for all the members of a group the same value. If they cease to be abundant the scarcity is felt not by an individual but by all the group. This is what we call *social scarcity*, or, as it is the general case of it, simply *scarcity*. In this case each man wishes to take into his exclusive possession the land he needs, but as by doing this he would deprive all others who have the same desire of a commodity to which they attach special value, an antagonism of interests arises. If the right of free appropriation were recognized, a collision of individuals would result, and to prevent this the community makes, when scarcity begins to be felt (this is due to a growth of population), regulations to keep in check antagonistic interests.

This is usually the case with forests ;² when their abundance decreases they are subjected to an elaborate form of regulation.

With regard to meadows we find among the **Cossacks**,³ in some districts of the **Kirgiz** territory,⁴ among the **Russian peasants** of the governments of Tomsk and Tobolsk,⁵ a lack of private ownership as an intermediate stage of evolution. (Unhappily the inquiries do not give details about the situation of these meadows.) When the scarcity of these begins to be felt, the community, by dividing them for shorter or longer periods, tries to satisfy the antagonistic interests. It is characteristic of the relation which exists between scarcity and the social *réglementation*, that in good years the meadows are used

¹ Kaufman, *Siberian Com.*, p. 89 *et seq.*

² *Ibid.*, p. 322 ff ; Kachorowski, pp. 70, 71.

³ Shcherbina, p. 154.

⁴ Kirg., VII. p. 24.

⁵ T. and T., pp. 41, 42 ; *West Sib.*, XVIII. p. 224.

absolutely free, while in years of poor crops they are divided by the community.¹

When pasture land is no longer abundant enough to satisfy the wants of all, the community limits the number of cattle which may be grazed by each member. In the second chapter I shall describe more in detail these regulations and restrictions.

With the exceptions of those lands, which are of a comparatively small importance, on all other in which labour had been incorporated or which surrounded the cultivator's dwelling, individual ownership was always the first form of property. Not only in Siberia but also in other countries we can see that the village community has been preceded by an individual appropriation of the soil.

The oldest **German** laws mention enclosures of cornfields, meadows and vineyards, proving the existence of private property ; Maurer admitted it,² but he considered that it was a later stage, and tried to demonstrate from Tacitus that the soil was common and equally divided in the most remote ages.³ But to-day, in consequence of the studies of Fustel de Coulanges⁴ and Hildebrand⁵ this theory has lost ground, and it is more and more generally admitted that in the oldest times no property existed at all (*vide* p. 6).

With regard to **England**, Pollock and Maitland express the following opinion : " We cannot think that, at the present day, any one who has made a serious study of legal history and who weighs his words, will assert that land was owned by corporations, that is by ideal persons, before it was owned by natural persons." ⁶

¹ T. and T., p. 42 ; *West Sib.*, V. 144 ; Kaufman, p. 318.

² Maurer, *Einleitung*, s.c., 108 ; *Markenverfassung*, p. 174.

³ *Idem*, *Einleitung*, pp. 72, 73.

⁴ Fustel de Coulanges, *The Origin of Property*.

⁵ Hildebrand, *Recht und Sitte*, 2nd ed., pp. 39-133.

F. Pollock and F. W. Maitland, *Hist. of Eng. Law before the Time of Ed. I*, Vol. II. p. 242.

In European **Russia** village communities did not exist¹ in the olden time ; they originated and developed only out of private property and since the sixteenth and seventeenth centuries.² Still in the eightieth year of the nineteenth century this process was going on in the south of Russia.³

With regard to **India**, Fustel de Coulanges drew attention to the weak points of the communistic theory. "M. Viollet and M. de Laveleye," he wrote, "make frequent references to ancient India ; why do they not mention that in all the ancient Hindu law which has come down to us, the rights of private property are mentioned, although, of course, the holding of property in common by co-heirs is also recognized ? Why has no one quoted the old maxim, 'The land belongs to the man who first clears it as the deer belongs to the man who first wounds it' " ?⁴

This objection is more than justified by investigations made in India by Baden-Powell, who points out that the conclusions arrived at in the works of Sir Henry Maine are professedly only probable, from such evidences as the writer had before him at the time. It can scarcely be doubted that the information available when Maine wrote was far from being what it has since become.

Here lies the explanation of the total omission from Sir H. Maine's pages of any specific mention of the *raiatwari* form of village, which is the prevailing one (it occupies 575,313 sq. miles, against 218,170 sq. miles occupied by the joint village), and which is characterized by the lack of any community of interests in the cultivated lots.⁵ This form of village seems to have been general in ancient times. "All traces of early custom," writes Baden-Powell, "show the villages

¹ Pawlow-Silwanskij, p. 119.

² Simkowich, *Die Feldgemeinschaft*, s.c., p. 56 *et seq.* ³ W.W., p. 12.

⁴ Fustel de Coulanges, *Origin of Property*, p. 131.

⁵ Baden-Powell, *The Indian Village Community*, 1896, pp. 4-11.

just in the same condition in this respect as the *raiatwari* villages of to-day.”¹ And he concludes, criticizing the theory of Maine, “I think we have every right to insist that the distinct existence of a type of Indian village, in which ‘ownership in common’ cannot be proved to be a feature either of the past or present, should be acknowledged, and that it is hardly possible to appeal to the Indian village community as evidence in any general question of archaic land custom. . . .”²

In **Java**, in the thinly populated districts, individual hereditary property is the general rule.³ Only where population is dense the village community exists. In these parts, however, this institution is of a more recent origin, and was preceded by individual ownership.⁴

Thus the principal pillars of the communistic theory are already demolished! But these are not the only arguments brought against the theory of Laveleye and Maine. In **Greece** the poems of Homer, the rites of ancient religions, the vestiges of oldest law prove individual ownership.⁵ Among the **Hebrew** tribes it existed before the commencement of civilization.⁶

To-day, the most primitive peoples nowhere are acquainted with a common property in land; the

¹ Baden-Powell, p. 11.

² *Ibid.*, p. 5.

³ Laveleye, *De la propriété*, p. 68; *Eindresumé*, Vol. I. p. 17.

⁴ *Eindresumé*, Vol. I. p. 293. “Individual hereditary property existed in earlier times everywhere,” *Ibid.*, p. 294. This has been ascertained as regards the different districts where the village community is now to be found. **Cheribon**: Common property originated only in 1812, before individual property existed, vol. ii. p. 56. **Tegal**: The “sawahs” (irrigated fields) were, in earlier times, individual hereditary property, Vol. II. p. 71; **Bagelin**, *Idem*, Vol. II. p. 142; **Japaras**, *Idem*, Vol. II. p. 161; **Rembang**, *Idem*, Vol. II. p. 182; **Madioen**, *Idem*, Vol. II. p. 199; **Pasocrean**, *Idem*, Vol. II. p. 247.

In **Soerabaja**, before the Dutch period, every one was free to occupy the “sawahs” without any restriction, Vol. II. p. 227.

Laveleye, in the fifth edition (pp. 58–72), gave a *résumé* of the Dutch inquiry on Java. He did it, however, in such a form as rather to obscure the results, which clearly demolish his theory.

⁵ Fustel de Coulanges, p. 95.

⁶ Lewis Morgan, *Ancient Society*, p. 542.

village community is only to be found among the more advanced societies.¹ Thus all the evidence we possess actually confirms our general conclusions.

Our inquiry leads us back to the old Roman theory that individual ownership is the primitive and natural form. Besides this, the Roman Law gives us a correct idea of the way in which this property is formed. This has been contested by the founders of the communistic theory of property. "The Roman lawyers," wrote Maine, "had laid down that occupancy was one of the natural modes of acquiring property, and they undoubtedly believed that were mankind living under the constitutions of nature, occupancy would be one of their practices."² This theory Maine rejected, concluding that "the notion that an act of this description confers a title to *res nullius*, so far from being characteristic of very early societies, is in all probability the growth of a refined jurisprudence and of a settled condition of the laws."³ Laveleye arrives at the same conclusion, pretending that the earth has never been *res nullius*.⁴

The possibility of observing the formation of property in the most primitive stages of agricultural life, when the population is thin and land in consequence is abundant, gives us sufficient proofs that occupation is the way by which property is formed. Certainly the old theory of occupancy, which represented the proprietor as "a strong man armed," justly excited criticism. "But why was it," objected Maine, "that lapse of time created a sentiment of respect for his possession?"⁵ As we have seen, it is not strength but the interest of every member of society which has been, for a long time, the source of the universal reverence for private property.

¹ Dargun, *Ursprung und Entwicklung*, s.c., pp. 3, 13, etc.

² Maine, *Ancient Law*, 1906, p. 263. ³ *Ibid.*, p. 268.

⁴ Laveleye, 5th ed., p. 544.

⁵ Maine, *Ancient Law*, 10th ed., p. 268.

THE DIFFERENT PHASES OF PASSAGE FROM A FREE USE AND A FREE APPROPRIATION OF LAND TOWARDS PERIODICAL DIVISIONS ON

NON-APPROPRIATED LANDS

(p. 26-28)

Pastures.

● Free and unrestricted use (p. 6, 18).

● Preventive measures (p. 34, 35).

● Preventive measures with an equalizing character (p. 35).

Meadows.

● Free and unrestricted use (p. 9, 26-27).

● Preventive measures (p. 33-34).

● Equalizing measures (p. 34).

Forests.

● Free and unrestricted use (p. 9, 26-27).

● Preventive measures (p. 36).

● Preventive measures with an equalizing character (p. 36).

APPROPRIATED LANDS

In which labour has been incorporated.

Arable lands.

● Free appropriation (p. 12-18).

● Restrictive measures (p. 43).

● Allotments (p. 45-46).

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(a) out of lands left without successor.
(b) out of lands proprietors of which did not fulfil their social obligations.
(c) out of all lands without discrimination.

Meadows.

● Free appropriation (p. 11, 12).

● Restrictive measures (p. 44).

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as for arable lands.
Allotments (p. 45-46).

Homesteads.

● Free appropriation (p. 12).

● Restrictive measures (p. 44).

● Allotments (p. 47).

In which no labour has been incorporated.

Meadows, Pastures, Forests, adjacent to the farmers' dwelling.

● Free appropriation (p. 22-25).

● Are open for the use of all, and pass through the same stages as the non-appropriated meadows, pastures and forests. As far as suitable for cultivation they are ploughed up and transformed into arable fields. (p. 42-43).

PERIODICAL DIVISIONS.

CHAPTER III

THE ORIGIN AND DEVELOPMENT OF THE VILLAGE COMMUNITY

IN the preceding chapter we tried to prove that individual property originated because its existence is in harmony with the interests of all. If the foundation of our reasoning is right, this form of ownership must disappear as soon as it ceases to be convenient for the majority. When does this happen? The formation of the village community is due to the same element as caused the origin of private property—a growth of population.

For two reasons this factor makes the intervention of the community desirable for all, or at least the majority—

1. Because it entails a destruction of wealth,
2. Because it causes any inequality in lands held by individuals to be more and more burdensome for those affected by it, and thus necessitates a division of the soil.

The function of the community, therefore, is to prevent destruction and to equalize the land.

The preventive policy applies exclusively to the non-appropriated lands, because only with regard to them is it necessary. When a man owns land, his personal interest is usually a sufficient guarantee against his destroying it. In any case, his ill-treatment of it will injure himself, and not the community.¹

On the non-appropriated meadows the unrestricted right to cut grass produces, with increase of popula-

¹ Sometimes the community also suffers by such devastation as, for instance, when deforestation influences meteorological conditions unfavourably.

tion, disastrous results. As the number of cutters increases, competition arises, and each tries to commence cutting earlier than the others ; this diminishes the crop, because no one waits until the grass is fully ripe. All lose by this, and the community, to prevent it, forbids the cutting of grass before a certain date.¹ In some places only the day of the beginning of mowing is fixed, in others there are more complicated regulations. All the inhabitants of the village gather before sunrise and, at a given signal, rush with their horses, trying to occupy the best meadows.²

The next stage in regulating meadows has already a purely equalizing character. In Siberia, among the **Kirgizes**, the **Cossacks**, etc., the preventive measures are followed by a limitation of the number of cutters each family may employ—mowing machines, etc., are forbidden.³ Finally, the community allots to those who have not enough grass, parts of meadows occupied by others.⁴

On unappropriated pasture-lands, it is not competition which destroys their natural resources, but the unrestricted roaming of a great number of cattle. In **India**, this overstocking of the grazing areas has rendered them bare and unfertile, causing vegetation to disappear ; the grass has no opportunity of growing again, and it is a struggle for existence between them and the cattle, which are miserably thin.⁵ To prevent this general impoverishment, the number of cattle

¹ In Siberia we find similar regulations for the gathering of nuts ; the community fixes the date of its commencement.—T. and T., pp. 91, 92 ; *West Sib.*, XVIII. p. 262. Among the Cossacks, fishing is forbidden before a certain day.—Kachorowski, pp. 120, 175.

² *Ibid.*, Kaufman, p. 247.

³ Kaufman, p. 130 ; Kachorowski, pp. 121, 127 ; Shcherbina, p. 154.

⁴ Kaufman, p. 317.

⁵ J. A. Voelcker, *Report on the Improvement of Indian Agriculture*, 1894, pp. 172-4.

admitted must be limited. First, the grazing of cattle bought for sale is forbidden; we find, not only in Siberia but also in India, that milch cows, buffaloes and cattle used for transit are excluded, and only such cattle as are used for ploughing or for working at wells are admitted on the pasture.¹ In the old **English** village community, often the only restriction placed on the use of the pasture was that the beasts should be owned by the villagers, should be *couchant et levant*, as the Anglo-Normans said, on the tenement, and not obtained from abroad.² We find the same limitations in the old **German Mark**.³

At a later stage the restriction is made more definite, and each member is allowed to send only a stipulated number of cattle on to the pasture ground. In Siberia, and in the south of **Eastern Russia**, this number is usually equal for all, and those who have fewer cattle sell their rights to those who have more.⁴ The same was the custom in the old **Danish** village community.⁵ In **England**, in the eleventh century, there are many traces of the necessity to reduce the number of beasts to be sent to the common pasture, and to equalize or to apportion them according to the size of the holdings.⁶ In **Germany**, we find these limitations in the eighth and ninth centuries.⁷ These measures, which in the begin-

¹ J. A. Voelcker, *Report on the Improvement of Indian Agriculture*, p. 72.

² P. Vinogradoff, *The Growth of the Manor*, 2nd ed., 1911, p. 169.

³ "Im einen wie im anderen Falle sollte jedoch nur *selbstgezogenes* Vieh in die Mastung und auf die Weide geschickt, also kein fremdes Vieh in die Heerde aufgenommen oder zu dem Ende angekauft werden."—Maurer, *Markenverfassung*, p. 145.

⁴ T. and T., pp. 82, 83; Kachorowski, p. 163. In central **Russia**, where there is no cattle breeding for sale, all these restrictions do not exist. As every one keeps simply the cattle necessary for ploughing, etc., and as the arable fields are equally divided, great inequalities in the number of possessed beasts do not exist, and special regulations are not considered necessary.—W. W., p. 471.

⁵ K. Haff, *Die dänischen Gemeinderechte*, 1909, I. p. 66.

⁶ Vinogradoff, p. 169. ⁷ Maurer, *Markenverfassung*, p. 145.

ning are almost exclusively preventive, have also at later stages more and more an equalizing tendency.

The preventive intervention of the community is not only caused by the increase of destruction, but also because with growth of population and the increase of scarcity, this destruction becomes more palpable. This is very well illustrated by the history of the regulations for forest land in Siberia.

In the first period there is such an abundance of forest that not only is there more wood than the peasants need, but the superfluity is a hindrance to agriculture. The forest is treated as an enemy, and great waste prevails. When a peasant needs one trunk he cuts several trees and then chooses the best. The burning down of large parts of the forest is not considered a mishap but a means of facilitating agriculture. Under these conditions there is naturally no need for restrictions to prevent waste.¹

But this changes when the abundance decreases and scarcity begins to be felt. Among the **Russian peasants** of **Siberia** it is the members of other communities who are first excluded from the use of the forests.² The cutting of young trees is forbidden, and a regular forestal economy is introduced.

At a late stage the community limits the amount of wood which each man may take, thus introducing an equalizing element into property.

In some parts of Siberia the peasant is limited in the amount of wood he may cut for sale by the amount which his own horses can carry.³ Among the **Buriats** there are communities in which a man is unrestricted in cutting wood for the needs of himself and his family, but is obliged to obtain authorization if he wishes to sell the wood.⁴ This policy leads at times to complete prohibition of sale.⁵

¹ Kachorowski, p. 165 ff.; T. and T., p. 69.

² Kachorowski, p. 166.

³ *Ibid.* p. 166.

⁴ Krol, p. 71.

⁵ Kaufman, p. 324.

Later, when the forests become still more scarce, the community regulates the amount which a man may cut for his own use. In some districts in **Siberia** permission to hew wood is only given to those members who need it for a new building or for repairing an old one.¹ In the old **German mark**, the amount of timber and firewood which every man might take was fixed.²

The measures we have hitherto described are principally intended to prevent the destruction of natural riches, although they have at times, and especially in the later stages of their development, an equalizing character.

We will now examine the regulating policy of the community which aims exclusively at equalizing the property of the different members. It is on the appropriated lands that we can observe this policy in its purest form, because here it is not combined with considerations for preventing destruction.

Why do these equalizing measures become necessary at a certain time? The right of free occupation leads to great inequality. Those who have great ability, more cattle, a larger family, become proprietors of land greater in extent by ten, and sometimes by one hundred times, than that of others.³

The superiority possessed by the rich over the poor in the appropriation of arable land has been very well observed among the **Cossacks**. Having at their disposal two plough-teams and three or four oxen, the rich proprietors can begin the thrashing before the harvesting is finished. Three or four pairs of oxen are employed to thrash the corn, and one plough-team goes on the fields and occupies the best lands. The poor man, possessing only one or two pairs of oxen or horses, cannot carry on these undertakings at the same time. He must first convey the corn to

¹ Kaufman, p. 326.

² *Vide* Maurer, *Dorfverfassung*, p. 214.

³ T. and T., p. 35.

the barn, then thrash it, and he is unable to think about ploughing before the end of the autumn: he must take the lands left by the rich, and has no time then to till more than a small plot. When possession becomes permanent the rich keep the large and fertile lands and the poor the small and barren ones.¹

We hear of rich **Cossacks** who have appropriated 1000 and more *desiatinas*, and who possess seventy-five harrows and thirty to forty ploughs. At the other end of the social scale we find a proletariat, with or without a small quantity of land, obliged to serve the rich.²

In the government of Irkutsk the following distribution of arable land has been ascertained—

	Percentage of possessors		
	less than 10 <i>desiatinas</i> .	10-20 <i>desiatinas</i> .	20 and more <i>desiatinas</i> .
Russian peasants . . .	39·8	35·1	25·1
Natives	50·8	32·3	16·9

Amongst the poor there are some who have no land at all, and among the rich there are "magnates" who have sometimes 500 or more *desiatinas*.³

The same inequality exists among the **Buriats** with regard to meadow-land, which each member may appropriate by simply constructing a fence. Some of the rich possess such plenty of them, that during years of good crops they do not cut the grass on part of their meadows, but use them as pasture.⁴

So long as there is plenty of land this inequality injures no one.⁵ The natives of a village in the Government of Irkutsk, when asked why they did not divide the lands, gave the following answer: "Why should we divide it when each man may clear as much as he wishes? It is impossible to introduce a division

¹ Harusin, pp. 11-13; *vide* also Sir D. M. Wallace, *Russia*, 1905, Vol. I. p. 299.

² Harusin, pp. 13, 14.

³ Lichkow, pp. 187, 290; Kachorowski, p. 144.

⁴ Krol, p. 24. ⁵ T. and T., p. 35; Kachorowski, p. 144.

because the tilling of arable land requires much labour, and each man wishes to keep what he tills, otherwise he will have spent his labour in vain." In another village the same question received the following answer: "An industrious man can always clear a field for himself. Why then divide the labour of others?"¹

Where land is abundant in Siberia, the rich Russian peasants reply thus to the complaints of the poor: "You have not enough fields!—But look how much free land lies all around! We have cleared our soils and there is nothing to hinder you from doing the same."²

This state of things changes with an increase of population.³ When all land convenient for ploughing, and all meadows are occupied, when the poor, and many of the young who wish to form households, find only inferior land or none at all, the old order of things ceases to be in the interests of all. We find this everywhere among the peasants of European **Russia** and of **Siberia**,⁴ the **Tartars**⁵ and the **Cossacks**,⁶ the **Buriats**, etc.⁷

At first this only leads to a strengthening of private property. When scarcity begins to be felt the original proprietors cling more closely to the land they possess. But with the continuous growth of population and the consequent increase of the dissatisfied members, the struggle between the opposed interests becomes more and more acute. For the poor, the only means of improving their condition is to claim part of the land of the rich. They base their claim on the communistic principle, on the "theory" that the soil is a gift of God,

¹ Lichkow, pp. 199, 200.

² Kaufman, p. 275.

³ For the relation existing between this process and the growth of population *vide* Kaufman, p. 275.

⁴ W. W., pp. 8-10, 37, 38; T. and T., p. 35; Kachorowski, p. 144.

⁵ Utz, s.c., p. 54.

⁶ Harusin, pp. 1 and 13.

⁷ Krol, p. 29.

that it is no man's land, that it is common property, and that, in consequence, all those performing equal duties have the right to equal shares.¹

The rich, on the other hand, advocate the right of every one to own the occupied soil, and try to justify it by the principle of labour and of first occupation. "Our lands have been tilled by our grandfathers and great-grandfathers; is it our fault that the parents of others lived in idleness?"²

The struggle is not always merely verbal. Those who have not sufficient land sometimes try to take it from the rich by force; as, for instance, among the **Cossacks**, it sometimes happened that the poor with their ploughs invaded the lands of the rich with the intention of appropriating them. These attempts usually ended in a fight which resulted in broken ploughs and pierced heads.³

Among the **Russian peasants** of Europe the passage to a division of land was accompanied by arsons, by disputes in which knives and clubs were used, and sometimes even by murder.⁴

The possibility of the poor being able to make their interests prevail becomes greater as time passes. With the increase of population, the number of those wanting land increases, and those claiming a division of the soil become the stronger party.⁵

"As soon as the landless have the majority," writes Simkowich of the peasants of European **Russia**, "the minority of the rich must either accept equalization, or the majority menaces and even persecutes them. So, for instance, if they do not want to abandon their rights, the division of land is made without them, and

¹ Kachorowski, p. 145.

² *Ibid.* For Cossacks, *vide* Harusin, p. 15.

³ Harusin, p. 16.

⁴ Simkowich, s.c., pp. 77, 78.

⁵ Krol, p. 176.

the rich are excluded from the use of the common pasture. Sometimes even violence is used.”¹

So we hear, for instance, of a public cudgelling of a peasant who tried to oppose himself to the decision of the majority.²

“So long as strength and the majority of voices,” writes Krol of the Russian peasants of **Transbaikal**, “were on the side of those to whose interest it was to keep the old forms of property, these latter remained untouched. But when the inequality in the distribution of meadow-land assumed larger proportions, and the number of those who desired to replace the existing order by a more equalizing one became sufficiently great in each community, the proprietors of the occupied meadows were obliged to enter into a compromise.”³

About the **Buriats** the same author tells us that only when the number of the dissatisfied becomes sufficiently great, do the rights of the rich begin to be encroached upon, and the authority of the community as an equalizing force manifests itself.⁴

The fight between the opposing interests is a long one: even if the rich have become the minority they succeed in making their interests predominate for a certain time. They represent the future state of things as destruction for all, if the demands of the “Communists” are granted, and many of the “middle classes,” fearful of losing what they already possess, join the party of the rich.⁵

The poor also, partly from the same motives, partly because they are economically dependent on the rich, do the same. “Thanks to their influence and intrigues,” says Mr. Harusin of the rich **Cossacks**, “they succeed in adding to their party the very poor people who propagate false predictions about future

¹ Simkowich, s.c., p. 77.

² H., p. 78.

³ The same applies to arable land, *vide* Krol, p. 176.

⁴ Krol, pp. 29, 112. ⁵ Harusin, p. 18; Kachorowski, p. 145.

miseries ; the mass without, after thinking for a long time, believes what they say and takes the side of the rich."¹

But finally, with the growth of population the number and wretchedness of the poor increases, and the "middle classes," seeing and feeling more strongly the wrongs of the existing order, pass over to the opposition camp.²

It is interesting to observe how this struggle of classes resembles what we have witnessed since the development of modern capitalism.

It would be erroneous to think that at the very moment when the partisans of equalization obtain a majority, individual ownership is abolished. The transition to equalization is a gradual one ; it begins while its supporters are still numerically unimportant and it continues after the political victory of the proletariat.

The passage from individual to common ownership advances in accordance with the increase in the number of those who have not enough land. We can distinguish three stages in this process of evolution—

First stage.—There exists no equalization, the community merely restricts the right of free occupation.

Second stage.—The community possesses the right to transfer property from one person to another.

Third stage.—The land is periodically divided.

In the first stage, the principal regulation limits the right of property to those lands in which labour has been incorporated. The pastures, forests, and the natural meadows which have been appropriated without any toil, because they were situated near the peasant's dwelling, are now, when their scarcity begins to be felt, simply taken from their proprietor and are laid open for the use of all.³

¹ Harusin, p. 19.

² Kachorowski, p. 146.

³ Kaufman, pp. 291, 319.

Every one can cultivate them. Because there is a great need of arable lands the community recognizes the principle that "it is forbidden to offer resistance to the plough."¹

At this stage the scattered farm system ceases to be.

When all the pastures suitable for cultivation are ploughed up by the poor, the farm ceases to be an economic whole. The farmer must send his cattle to the common pasture designed for this purpose by the community. At this stage he abandons his old dwelling and settles in a place chosen for the village, where he probably has an easier access to the pasture-ground.²

The poor claim very energetically the abolition of the farm system. They exercise in this respect a very strong pressure on the rich.³

So the passage from the "Einzelhof" to the village, far from being an impossibility, as Maurer supposed (*vide* p. 23), is a phenomenon which we can observe even to-day.

The arable lands may be kept by the proprietor only so long as they are used for cultivation. To meet this difficulty, the community stipulates the number of years of fallow after which the cultivator loses his right of property. The periods vary in **Siberia** from twenty to three years; at first they are long but become shorter as the population increases.⁴ We find the same in **Java**.⁵ Finally even the short periods are abolished, and once the land is left fallow the right to own it ceases.

Similar regulations existed in the old **German** and **Danish** village. "The right of free occupation," says Maurer, "becomes restricted . . . the cultivated

¹ Kaufman, *K. woprosu*, p. 35.

² *Ibid.*, and Shcherbina, p. 77.

³ Kaufman, pp. 288-294; Shcherbina, pp. 69-77.

⁴ Kachorowski, p. 124.

⁵ *Eindresumé*, I, p. 65.

lands left a certain time in fallow were treated again as 'Markland.'"¹

We do not find this kind of restriction on the appropriated meadows in which labour has been embodied;² this for the reason, that arable land in the primitive system of agriculture is only tilled during a certain time and then left in fallow; the meadows, on the contrary, are used continuously, and there is no opportunity to cause the right of property to cease when labour is interrupted.³

These meadows usually pass directly from unrestricted, individual ownership, to the second stage, characterized by the right of the community to transfer land from one person to another.⁴

On arable lands in this first period of equalization the rights of the individual to sell, give away, or bequeath the land are subject to the control of the community.⁵ Similar restrictions are applied to land occupied by the homestead.⁶

The regulations making the right of ownership of arable land dependent on the tillage of the soil, lead to great disadvantages with the increase of population; the periods of fallow become shorter and shorter, until the soil is cultivated without interruption, and becomes completely exhausted. The continuous cultivation also renders it impossible for the landless members to take advantage of their right to occupy untilled soil. Finally

¹ Markland, the land which was free for occupation.—Maurer, *Markenferfassung*, p. 171. For similar regulations in Denmark, *vide* Haff., s.c., I. pp. 165, 170.

² There are a few exceptions. In some districts the proprietor of a meadow loses his right to it only if he does not mow it.—Kaufman, pp. 133, 319.

We do not know whether labour has been embodied in the meadows to which this rule applies.

³ Kaufman, p. 319.

⁴ Kaufman, *Sib. Com.*, pp. 92, 93.

⁵ Kachorowski, pp. 138, 140.

⁶ Kaufman, p. 294; Krol, pp. 113-6, 123, 124; T. and T., p. 4. We do not know how far these restrictions apply also to meadows.

the economic superiority of the rich, allowing them to appropriate large areas of the best soil, remains unrestricted.¹ To this there are only a few exceptions among the **Cossacks**.²

The community must then make a further advance in social intervention ; it must take land from those who have too much and give it to those who have not enough. The different phases of this process are the same in the case of meadows and arable land.

First of all the community divides among the poor the lands left without successors. Among the **Kirgizes** such meadows "become common property, and are distributed among those families who obtained no meadows from their fathers."³ The same applies to the **Buriats** : "The meadows left without successors," says Mr. Krol, "are no longer free for occupation by any one, but are disposed of by the community, which allots them to those who are in need."⁴ In some cases the successor refuses to take over the land he inherits because he does not wish to pay the tax for it ; such land is also divided by the community."⁵

In **Siberia**, among the **Russian peasants**, meadows and fields are allotted to the landless out of lands left without successors. This method of allotment is the most convenient ; it releases the community from the trouble connected with any other system of measuring and valuing the land, and it leaves the interest of the old proprietor more or less untouched. But this system is only possible when the number wanting land is small ; as they increase, the amount of land left

¹ Kaufman, p. 307 ; Dubienskij, pp. 163, 164, 189-90 ; *West Sib.*, XVIII. 228.

² The Cossacks try to restrict the advantages of the rich by forbidding them to use more than one plough.—Kachorowski, p. 127 ; Kaufman, p. 315. Here also we find regulations fixing the day on which ploughing shall begin.—Shcherbina, p. 110. This kind of equalizing rules have nowhere been found in Siberia.

³ Kirg., XI. p. 36 ; *Ibid.*, VII. p. 21.

⁴ Krol, p. 30.

⁵ *Ibid.*, p. 31.

without successors is no longer sufficient to satisfy their needs, and the community must then take it from the actual possessors.

Those who are first affected are those who have not paid the taxes. It is considered just to deprive those people who have not fulfilled their social obligations, of part of their property.²

When, however, with the continuous growth of population this system also becomes insufficient to provide the poor with land, the community abandons this discrimination between those who have and those who have not paid the taxes. Every man who has plenty of land becomes liable to be deprived of some of it.²

Generally among the Russian peasants in **Siberia** the initiative is left to the individual ; the community waits until the cultivator who needs more land applies for it, stating which portion he would like to have, why he needs it, and why the actual proprietor does not need it. The latter, naturally, tries to prove that he has not sufficient land, that the statement of the covetous one is not true, etc. Having heard the statements of both parties, the community passes sentence, and eventually allots the land to the cultivator who was in need of it.³

This method of allotment becomes more and more frequent. At first there is no exact measuring, only the most conspicuous inequalities are abolished, but later on the others, too, are remedied, and finally all members have more or less equal quantities of land.⁴

This system of providing the poor with land exists also among the half-nomadic peoples. If the meadow which a **Kirgiz** inherits from his father is small, the assembly allots to him a meadow taken from those who have abundance of land.⁵ The **Buriats**, in their

¹ For Russian peasants, Kachorowski, p. 131 ; For Buriats, Krol, p. 31.

² Kachorowski, p. 136.

³ Kaufman, p. 309.

⁴ *Ibid.*, and T. and T., p. 42.

⁵ Kirg., IX. p. 22 ; Kaufman, pp. 134, 135.

social policy, are guided by the same principle as the peasants and Kirgizes, viz. to give land to those who are most in want of it. The allotments observed here are very frequent.¹ Among half-nomads the allotment of arable lands is exceptional, for the simple reason that agriculture is not much developed, and there is abundance of land suitable for cultivation.

Land occupied by the homestead is also subject to allotment; sometimes the community stipulates that it shall not exceed a certain norm (1-2 *desiatinas*).²

In European **Russia** we find, besides this method, other means of equalization. Peasants who possess a greater homestead than others get a smaller quantity of arable fields, or are obliged to pay a special tax.³

When inequalities have been abolished by allotments, the community can only supply the new members by taking equal parts from all.⁴ A periodical re-division of the soil every few years is the simplest manner of attaining this end, and of distributing the land equally among a fluctuating population.⁵

Not only are those meadows and arable lands periodically divided which have passed through the previous stages of equalization, but also the non-appropriated meadows and forests in regard to which the equalizing measures were intimately connected with a preventive policy.

This final stage in the equalization of land, viz. the periodical re-distribution, is not reached by pasture-land, and that land on which the homestead is situated. Pasture land is not periodically re-divided, because such a process would be very inconvenient.

¹ Krol, pp. 32-37.

² Kachorowski, p. 180; Krol, pp. 115, 116, 123; T. and T., p. 84.

³ W. W., p. 490.

⁴ By taking land from one, the community would disturb the existing equality.

⁵ If the population were stationary it would not be necessary to repeat the division periodically.

Every household would be obliged to have its own herdsman, while, when all the cattle of the village is grazing together, a few boys are sufficient to keep it.¹

By regulating the number of cattle which each family may send to graze on the common pasture the community, without a division, abolishes all inequalities. The reason why homesteads are not periodically divided will be examined below.

The methods of division are far from being uniform, they not only differ in meadows, forests, and arable lands, but they vary from one place to another.

In this book, which aims simply at setting forth the fundamental principles of the development of property, these different systems cannot be described. There are only two points which I want to put in this connection before the reader—

1. We will examine why, in the village community, arable lands are not divided into large plots, but into scattered strips.
2. I will show that the village community tries to divide the land in such a manner as to injure as little as possible the interest of every man in an intensive cultivation.

The custom of dividing arable lands into fields, and afterwards into long strips, existed in **Germany, England, Scotland** and **Wales**, and traces of it are still visible. This so-called "open-field system" is to-day characteristic of the village community in **Russia, Java, India**, etc.

Judged from a modern standpoint this peculiar straggling or scattered ownership is absurdly uneconomic, particularly in the time wasted in passing from one part of the farm to another.

But this system has also its advantages, which, as long as agriculture is extensive, outweigh the dis-

¹ Utz., s.c., p. 47.

advantages. We are able to see it very clearly in Siberia.

The principal cause of this system's origin lies in the fact that the soil is very unequal in quality. Already the first settler, taking possession of unoccupied land, has his fields scattered because it is difficult to find one continuous piece of land which would satisfy all the requirements of cultivation, which would give equally a good crop of oats, of spring corn, of wheat and of rye. Again, with the good land are usually found patches of bad land which is not worth cultivating. Finally the concentration of one man's land into one plot exposes it uniformly to the climatic peculiarities of the locality. "Briefly," says Mr. Lichkow, concluding these remarks, "so many economic conditions co-operate, that though the cultivator prefers to have his land in one part, the necessity, indeed the inevitability, arises of having it in scattered pieces."¹ It is very characteristic that similar reasons are adduced to prove the superiority of the scattered field system existing in **Japan**.²

The community in dividing the land takes this necessity into account. The allotments and the periodical divisions are made in several patches.

One **Cossack** community failed to observe this rule, and divided the land in such a way that each member received his portion in one plot. By this means some received all good soil, and some only bad soil. The resulting disadvantages were so great, that six years later the community introduced the system of scattered ownership, dividing the land according to its quality.³

At first this kind of division is comparatively simple,

¹ Lichkow, pp. 131, 132. For European Russia *vide* W. W., pp. 399-400.

² D. B. Simmons, "Land Tenure in Old Japan." *Transactions of the Asiatic Society of Japan*, 1891, Vol. XIX. p. 72.

³ Shcherbina, p. 101.

because the different sorts of land under extensive cultivation do not exceed three or four in number.¹ With the introduction of manuring this changes, and the distance of the field as well as its quality becomes of great importance. Each member must have at least part of his land near the village, and so the community must, in making the division, consider both these factors—distance and quality. This leads to an increase in the number of sorts of soil, which generally range from six to fifteen in the three-field system, and from four to ten in the two-field system.²

The two maps I reproduce here illustrate very well the influence of manuring on the form of the village community.³ In **South Russia**, where the soil has a great natural fertility ("chernosem," black earth) and manuring is only little developed, the fields are much less scattered than in the north.

Usually only at the passage to the three- and four-field system does the community begin to regulate the cultivation. The different plots in each field must then be tilled at the same time, sown with the same crops, and abandoned for common pasture at the same time, according to the rules of the *Flurzwang*.⁴ Thus, after long and gradual evolution, the final stage of the village community is reached.

In dividing the land, the labour expended on it is taken into account, and the periods are arranged so as not to destroy the interest of the individual in good cultivation of his soil. For this reason arable lands remain in the same hands for much longer periods than

¹ Krol, pp. 207, 208; *West Sib.*, V. pp. 164–167; Kaufman, pp. 349, 350; T. and T., pp. 44, 45.

² Kaufman, pp. 350; T. and T., pp. 43–46; *West Sib.*, XIII. p. 64.

³ In the steppes of South Russia there are village communities where every peasant gets his arable land in two or three pieces.—W. W., p. 400.

⁴ Kaufman, p. 349; *West Sib.*, V. p. 189; XIII, p. 69, etc.

MAP III.

THE VILLAGE NOVOSELOK
IN THE GOVERNMENT OF
PSKOW
(NORTH RUSSIA)

The black strips indicate the land
allotted to one peasant



- Homesteads
- Arable Lands
- Meadows
- Forests
- Roads
- Lakes
- Bog-land

MAP IV.
THE VILLAGE PAVLOVKA
IN THE GOVERNMENT OF
TAURIA
(SOUTH RUSSIA)

The shaded strips indicate the land
allotted to one peasant



Village
Pavlovka

- Homesteads
- Arable Land.
- Pasture.
- Roads.

The two maps illustrate the influence of the soil on the forms of division (*vide* p. 50). In the village of Novoselok the meadow and arable land is allotted to every householder in 100 strips. We find similar conditions in all the northern parts of Russia, where manuring is very developed.

The village Pavlovka with its arable land divided into only eight strips is typical of the conditions prevailing in the fertile South.

(The two maps have been reproduced from the Report of the Ministry of Agriculture entitled: *Zemlevladenie*, 1907-1910. St. Petersburg. 1911.)

meadows in **Siberia**¹ and **European Russia**.² It was so in the old **English** village community.³

The same discrimination exists between different kinds of arable land and meadows, cleared fields being re-divided after forty, the others after twenty years.⁴ In the south of **Russia** the periods of re-division are of six years; in the north, where manuring is necessary, they extend from ten to twenty years.⁵

Meadows situated on river sites are divided for short periods; those situated in forests for long periods, because they need much labour and care to protect them from being overgrown.⁶ The same applies to manured meadows.⁷

The gradual development of common property, as we have described it, is not a simultaneous process with meadows, fields and pastures, and for two reasons—

1. The necessity for equalization is not simultaneously felt on all these soils.

2. The difficulties met with in abolishing individual property are not equal in different cases.

As we have seen, the intervention of the community is only desirable when the land ceases to be abundant. It is quite clear that this will not be the case with meadows, arable land, forests, etc., at the same time as they exist in different quantities in different places, and human wants differ in degree.

Division of meadows begins, as a rule, much earlier than that of arable land, because the *scarcity* of the former is felt before that of the latter. Among the settling nomads, agriculture does not play an important rôle, and there is more land than they require for this purpose; hay, on the contrary, is needed in large

¹ Kaufman, p. 358.

² W. W., pp. 460, 461.

³ E. Nasse, *Über die mittelalterliche Feldgemeinschaft in England*, p. 10.

⁴ Lichkow, pp. 207, 208.

⁵ W. W., p. 410.

⁶ *West Sib.*, XIII. p. 105.

⁷ W. W., p. 461.

quantities and the existing meadows are not sufficient for the wants of all.¹

The same applies to those **Russian peasants** of **Siberia** who consider cultivation a secondary occupation. "Cattle-breeding," says Mr. Krol, "which plays in the life of Trans-Baikal an important and even exclusive rôle, requires a much larger area than agriculture. And thus the cattle-breeders feel an 'oppression' in land sooner than the cultivators."²

"The insufficiency of meadows," writes Mr. Kaufman, speaking of similar conditions, "is everywhere felt much earlier than the scarcity of fields, because cattle-breeding is more developed."³

The same reason which accounts for the earlier intervention of the community in the case of meadows than arable lands gives us a clue to the explanation why the division of all arable land and all meadows does not take place at the same time.

The evolution of equalization in **Siberia** has made greater progress with the meadows situated near water than with those situated in forests, because the former, being much more fertile, are more desired, and in consequence comparatively scarce.⁴ Thus, for instance, in the district of Tomsk and Mariisk, where meadowland is in great abundance, the system of free occupation predominates with regard to meadows in dry valleys, while of those which are well watered division already exists.⁵ This same differentiation is found among the **Cossacks**,⁶ the peasants of European **Russia**.⁷

In **Siberia** the arable lands of poor quality often remain free for occupation while the better fields are divided.⁸ The land situated at a distance from the

¹ Kaufman, p. 124.

² Krol, p. 194.

³ Kaufman, p. 286 ; T. and T., pp. 36, 37.

⁴ T. and T., p. 37 ; *West Sib.*, XVIII. p. 240.

⁵ T. and T., p. 58.

⁶ Harusin, p. 42.

⁷ W. W., pp. 8-9.

⁸ *West Sib.*, V. p. 136 ; T. and T., p. 37 ; Kaufman, p. 313.

village, for which there is no great demand, is also left for individual appropriation, and only that which is near is distributed by the community.¹

In old **German** times, we observe the same differentiation of land according to quality and situation. "The mark belonging to a village," writes Maurer, "was generally, in so far as it was suitable for cultivation (*terra arabilis*) and situated near the village, distributed among the members of the community ; in so far as it was less suitable or more distant, it was left undivided."² In **Sweden** according to mediæval law we find a similar state of things.³ In European **Russia** division was at first only applied to the fields near the village ; of those at a distance the right of free occupation continued to exist for a long time and was only gradually abolished.⁴

The second reason which accounts for the development of the village community not being simultaneous on all lands, is in the varying difficulties met with in the process. The more labour a proprietor has expended on the soil, the more he clings to it, and the more strongly he protests against any intervention of the community.⁵ It is to the interest both of the old proprietors and of the community to take this labour into account. By an indiscriminate division of land, the community would hinder intensive cultivation and clearing of forests, for no member would undertake these laborious tasks, only rewarded after many years, if he knew that he might be deprived of his lands in a few years by a re-distribution. Thus the wealth of the whole community might be diminished and all would suffer. For this reason the guiding principle of the

¹ *West Sib.*, XVIII. p. 228 ; T. and T., p. 37.

² Maurer, *Geschichte der Dorfverfassung*, pp. 33, 34 ; *Idem*, p. 40.

³ "Hiernach war im schwedischen Rechte des Mittelalters in der Nähe der Dörfer das Einfangen zu Individualeigenthum nicht mehr gestattet." Haff. s.c., I., 166.

⁴ Kaufman, p. 315 ; W. W., p. 13.

⁵ Kaufman, p. 339.

economic policy of the village community is to respect as far as possible the right of each man to the fruit of his labour.

We have already seen that the periods between the re-divisions are longer as there is more labour incorporated in the soil (*vide* pp. 50, 51). I will now show that this principle influences the rate of development of common property. Meadows are generally divided before arable lands, not only because they are more scarce.—“The meadows,” writes Mr. Krol, “scattered on the banks of the rivers in Trans-Baikal, can be used without preparatory labour; while arable fields ready for harvest do not exist in nature and necessitate much labour in tilling the soil and clearing the forests.”¹ Therefore a periodical division of these meadow-lands, by which the proprietor loses all connection with the land he has appropriated, is easily and early introduced. On the arable lands this arrives only later, and even then the community tries to distribute the land in such a manner as to give to the old proprietors a share in the fields which they have tilled before.² It is only at a comparatively late stage, when scarcity is still more acutely felt, that this discrimination between the old and new settlers disappears.³

The same differentiation, according to the quantity of labour incorporated in the land, exists between different kinds of meadows and arable land. “Everywhere,” says Mr. Krol of the **Buriats**, “the manured meadows remain in the possession of their owners much longer because much more labour is incorporated in them; they are divided much later than the natural meadows, and only when their scarcity is very strongly felt.”⁴

Concerning the peasants in **Siberia** the same author

¹ Krol, p. 194.

² *Ibid.*, p. 207; T. and T., pp. 45, 46; Lichkow, pp. 214, 215; *West Sib.*, V. p. 209.

³ Krol, p. 177; Kaufman, p. 342 *et seq.*

⁴ Krol, pp. 42, 64.

writes that first of all are divided those meadows which are the free gift of nature, and only later those which have been irrigated, manured or cleared.¹ Among the **Buriats**, the right to own the cleared arable lands is unrestricted ; those on which less preparatory labour has been expended are already subject to division.² The same has been observed among the **Cossacks**,³ **Armenians**,⁴ the peasants of **North Russia**,⁵ **Siberia**,⁶ and in **Transcaucasia**.⁷ In **Java**, in many village communities, where the fields are periodically divided, the cleared land is still individual hereditary property.⁸

As I have already stated, the areas occupied by the homestead (house, gardens, orchards, out-buildings) are never periodically divided ; the reason for this is that the labour incorporated in them and necessary for their maintenance is so great⁹ that an individual would have no interest in undertaking it unless he knows he can retain possession of them. A periodical re-distribution of such land would render impossible the building of durable houses, fruit-growing, gardening, etc., and so it remains private, hereditary property in **European Russia**,¹⁰ **Siberia**¹¹ and **Java** ;¹² as it was in the old **German** and **English** village communities. " With regard to the house and to the close or croft adjoining it," says Vinogradoff, " the householder had a right of private ownership, which seems at first sight to be as well grounded as the freehold property of the present day. Already, with regard to the *ceorl*, the old English

¹ Krol, p. 196.

² *Ibid.*, p. 80.

³ *Ibid.*, p. 158.

⁴ Segal, p. 56.

⁵ Efimenko, p. 143.

⁶ Krol, p. 196; *West Sib.*, XVIII. p. 248; Lichkow, p. 235.

⁷ *Transcaucasia*, Vol. III., Pt. II. p. 18.

⁸ *Eindresumé*, s.c., Vol. II. p. 64.

⁹ Kachorowski, p. 180 ; Krol, pp. 115, 116 ; T. and T., p. 84 ; W. W., pp. 478, 489, 490.

¹⁰ Laveleye, *De la propriété*, 5th ed., p. 11.

¹¹ Kachorowski, p. 181 *et seq.* ; Krol, p. 113 ; T. and T., p. 89.

¹² Laveleye, s.c., p. 44 ; *Eindresumé*, I. p. 141 *et seq.*

freeman of the lowest degree, it might be appropriately said that an Englishman's house is his castle. His *edor*, his hedge, was protected as well as the king's or the thane's burgh."¹

In this oasis of individualism remaining in the desert of communistic institutions the cultivator is restricted by no one. Here, on his homestead, he is sole master, and individual initiative can freely develop. Here he can introduce innovations, and make experiments, he can plant fruit-trees, tobacco, potatoes, or whatever he chooses.²

Such, in broad outline, is the history of the development of the village community. No idealistic principles guided its evolution according to the postulates of any theory, but the necessities of daily life determined the path of this primitive economic policy. With the growth of the number of those who are not satisfied with the old order of things, the measure tending to abolish them becomes more and more radical. This evolution, characterized by a transition from a *laissez-faire* policy to a developed system of social intervention, is not simultaneous on all lands. According to the degree of need which makes an equalization necessary, and according to the difficulties encountered by such a policy, it originates at different times and advances at different rates.

¹ Vinogradoff, s.c., p. 183.

² Kachorowski, p. 184.

CHAPTER IV

CONCLUSION

IN the introduction to this book I said that the whole evolution of property could be traced back to four elements—

1. The economic principle.
2. The principle of numerical strength.
3. The growth of population.
4. The relation of nature to human wants.

Let us see how far this assertion is right.

The influence of the economic principle, the assumption according to which man tries to obtain the *greatest possible quantity* of material—goods necessary for the satisfaction of his wants with the *least possible effort*—could be observed very clearly.

During the process of formation of property this principle manifested itself in this form, that man undertook the effort of appropriation only then, when without it he risked being exposed to a much greater loss.

The nomad, who had no difficulty in replacing the pasture he had left behind by another equally good, did not know the institution of property in land. We saw how meadows and forests in the beginning, as long as they were abundant, were used freely everywhere. Land at this stage had no greater value than air has for us, and consequently it was treated in the same manner (p. 6–10).

This state of things changed with the passage to agriculture and to settled life. A cultivator, who might be deprived of a piece of land in which he had *incorporated his labour*, would be obliged to repeat this burdensome task. In the same manner he could

replace a piece of land *adjacent to his dwelling* only by a more distant, and in consequence a less convenient, one.

In both cases he was exposed to a loss of time in comparison to which the effort of appropriation was relatively small, and for this reason economically rational. Property then originated from the two sources, *labour* and *individual scarcity*.

In the smallest details we could observe how the formation of property was connected with these two factors.

In the same communities we saw that the forms of property were different as regards meadows which were manured, drained, etc., and those in which no labour had been incorporated (p. 12). Arable lands, the tillage of which had required much labour (clearing of stones, forests, etc.), were individual hereditary property, all others were held only in temporary possession as long as the system of shifting cultivation prevailed (p. 18).

Lands in which no labour was incorporated, and which were adjacent to the cultivator's dwelling, were private property; the more distant ones remained a long time open for the free use of all (pp. 23, 26).

We observed also the influence of the economic principle during the passage from individual to common property. The division of land is not only a troublesome task, but also by restricting the individual, it hinders him in the most economic use of his labour. It is clear that nobody will desire such a measure if in exchange he does not obtain some economic advantage. As long as every one could find more land which he was able to cultivate, it did not matter to him how great was the property of his neighbour. He did not covet it, because without it he had a superabundance. This changed, however, when a class of poor grew up who found only inferior land, and in an insufficient quantity (pp. 38, 39). By dividing the fertile soils of the

rich they were able to better their economic conditions; they could obtain more of the goods necessary for the satisfaction of their wants, and with a smaller effort.

Here also we could observe in the smallest details, in the discrimination between meadows and fields of different fertility, between those which were more or less distant from the village, how only when *scarcity* (social scarcity) of land began to be felt the community abolished the right of free appropriation (p. 51-53). There is perhaps nothing more characteristic of the relation which exists between equalization and scarcity, than the fact that meadows were used freely in good years and were divided only in years of bad crops (pp. 27, 28).

This policy having for its purpose the amelioration of the economic conditions of the poor had necessarily a tendency contrary to its aim. Every intervention, namely, restricted the spirit of enterprise, rendered an intensive cultivation of the soil more difficult, and by this diminished the well-being of all. We have seen how the community, taking into account the labour incorporated into the soil, tried to avoid all these undesirable consequences of its policy (pp. 50, 51, 53-55).

Where this was not possible, where the economic disadvantages of a division of land were so great that they outweighed the advantages, the community recoiled from these measures. For this reason homesteads and pastures were never periodically divided (pp. 47, 55).

The economic principle in itself is not sufficient to explain for us all problems we have analysed. The economic interests—interests resulting from the application of the economic principle—are not always identical in a community. We saw the antagonism existing between the rich and the poor, between those who wanted to maintain the old institution of private property and those who claimed a division of lands. The prevailing of this or the other form was dependent on the *numerical strength* of its adherents.

With the increasing number of the dissatisfied, the measure abolishing private property became more and more radical. Once the poor had become a majority, the days of this institution were numbered (pp. 40, 41).

The economic principle and the principle of numerical strength are *constant* elements, which do not change. If they alone were in existence the forms of property would be stationary, and the same all over the world. But besides these there are two *varying* elements.

The great dynamic force which caused all the changes in the formation of property was the *growth of population*. It put an end to the original abundance of land, and by diminishing the area at the disposal of each man forced him to pass from nomadism to the cultivation of soil, and to settled life (p. 11). We saw how this gave rise to the formation of private property (pp. 11 *et seq.*).

With the continuous increase of population even the more intensive use of the soil could not prevent a scarcity of land. The class of poor grew up and became more and more numerous. How this led to a division of the soil has been shown above (p. 39 *et seq.*).

So the formation of private property and its breakdown have been caused by the growth of population. It is a unanimous opinion of those who investigated the origin of the village community in Siberia, that not only in main outline but in the smallest details the whole process has been dominated by this factor.¹

For this fact, which is beyond any dispute, Lichkow has given a statistical confirmation. He has divided the communities of three districts of the government of Irkutsk into four groups according to the development of equalization. He has ascertained also how much arable land each of these groups possessed per head of population. The following are the results he has obtained²:

¹ Kaufman, p. 268; Kachorowski, pp. 146, 161, 202, 212, etc.; Krol, pp. 176, 245, etc.; Segal, pp. 53-6.

² Lichkow, p. 143, quoted also by Kaufman, p. 277.

The development of equalization of arable land.	Arable land per head of population (dessiatines).
Communities without allotments, or with allotments occupying no more than 2 per cent. of the whole area	4.5
Communities with allotments occupying 2 to 7.6 per cent. of the whole area	4.2
Communities with allotments occupying more than 7.6 per cent. of the whole area	4.1
Communities with the prevalence of periodical divisions	3.7

We see very clearly how the process of equalization increases simultaneously with the decrease of arable land per head of population.

Modern Russian historians, as Pawlow-Silwanskij, point out, on the evidence of documents of the fifteenth and sixteenth centuries, that the passage to common property only took place when scarcity of land began to be felt.¹

The increase of population does not produce everywhere the same results. The intensification of economic life and the occurrence of scarcity of land are partly dependent also on the *relation of nature towards human wants*.

Differences of natural conditions of the soil play in this respect an important part. With the same increase of population it is necessary to incorporate more labour in forest regions (clearing), for instance, than in the steppes. Where the soil has a great natural fertility, as in **South Russia**, manuring is much less developed than in the North.

All these differences react on the formation of property. The greater the amount of labour incorporated in the soil, the sooner and the more strongly does individual ownership establish itself, and the greater are obstacles which equalization encounters. Lands

¹ Pawlow-Silwanskij, pp. 106-108 ; *Idem.*, Kaufman, p. 433.

which have been occupied by forests and have been cleared are divided much later and for longer periods than lands where this severe task is not necessary (pp. 51, 54). In **South Russia** arable lands are re-divided after six years, in **North Russia** after ten to twenty years, simply because the "black earth" does not need manuring (p. 51).

For this reason also, the scattered field system is much less complicated in the fertile south than in the north (p. 50).

Natural conditions influence also the scarcity of land, which is felt much sooner in regions where there is a small quantity of soils suitable for cultivation than in those where it is much greater. For this reason, in very infertile districts (in the government of Wologda and of Tobolsk, for instance) we find periodical divisions, though the quantity of land per head of population is comparatively great.¹

Scarcity does not depend only on the density of population and on natural conditions of the soil, but also on the degree of human wants. In a primitive society, where land is not acquired for speculation, but simply because it enables man to obtain the necessities of life, the need and want of it is determined by the existing economic system. The half-nomad having many cattle needs first of all pasture land and meadows, and does not care so much about arable land. The opposite is true of the cultivator. For this reason we see that the division of meadows is sometimes more developed among half-nomadic peoples than among agriculturists, though per head of population the former possess a greater area of it. But as at the same time their herds are much greater, they feel more strongly a scarcity of meadow-land.

A statistical example will illustrate it. In the eastern Trans-Baikal we find as follows ² :

¹ Kaufman, p. 278.

² Krol, p. 246 *et seq.*

	Per cent. of divided meadow.	Dessiatines of meadow per household.	Large cattle per household.
Baptized natives	98	7-29'4	18-40'7
Russian peasants	92'5	1'4- 5'8	7-18'6

It must not be forgotten, however, that these differences of wants, though they influence scarcity, are themselves the result of it. The smaller the area of meadow and pasture per head of the population, the smaller, naturally, the number of cattle a society can keep and the greater the importance it attributes to agriculture.

I think then that, under equal conditions of density of population and of natural surroundings, the needs and wants of every individual for land do not greatly differ. It is not necessary in the final conclusions to take them into account. Speaking then of density of population and of natural surroundings, we tacitly imply a corresponding state of human wants.

The geographical conditions which we have analysed hitherto, influenced the pace of evolution, caused small differences in details, but did not change the direction of the whole process. Out of a state of no property, private property, and out of it the village community originated.

Natural conditions, however, modify sometimes this succession and prevent the formation of common property. We have seen already that homesteads are held always in individual ownership, because the labour incorporated in them is so very great (p. 55).

It is clear that where arable lands can be made fit for cultivation only under equally difficult conditions, the same must be observed.

In the Russian village communities great areas covered with stones remain waste. The efforts necessary for an individual to make them fit for cultivation are generally so great and are recompensed only after so many years, that the peasant does not undertake

their tillage, knowing that at the next redistribution he can be deprived of this land.

Where, however, these soils are cultivated they become, contrary to the general rule of re-division of soils, the hereditary property of those who cleared them. In some localities of the government of **Petersburg, Tambow, Orlowsk**, etc., where periodical divisions are the rule, these lands are individual property.¹ It is clear that in countries where all the soil is covered with stones the village communities cannot exist. This applies to **Finland**, where it is necessary to remove great granite blocks to make the soil fit for cultivation. Here individual ownership of arable fields always existed.²

Periodical divisions are only possible where the preparatory labour is relatively so small that it can be remunerated after a few years of cultivation. This general rule explains to us why, when agriculture becomes more intensive, the village community breaks down.

The configuration of the soil reacts also on the formation of property. It is a commonly known fact that village communities are to be found in valleys but not on the hillsides.

In **Switzerland, Tyrol**, and the **Bavarian Alps** we observe very clearly this dependence of forms of property on topographical conditions.³ Among the Scandinavians, the Norwegians living in mountainous country settle in "gaards" or separate homesteads, the Danes in "by's" or villages.⁴ In India we find the

¹ Kachorowski, pp. 93, 94.

² This is based on private information and observations.

³ "Solche Hof-Ansiedlungen haben ihren Grund in der Regel in der Lokalität. . . . Recht klar wird dieses in den bairischen, tiroler und schweizerischen Alpen, wo sämtliche Dorfsschaften aus solchen zusammenhängenden Hofanlagen bestehen, während dicht daneben in den grösseren Thälern und in den ebenen Dörfer mit Feldgemeinschaft liegen."—Maurer, *Einleitung*, I. p. 10.

Vinogradoff, *Origin of the Manor*, 2nd ed., p. 91 (Note 20).

village community in the *plain* country ; at the same time we do not find it on the **Himalayan hillsides**.¹

We have not sufficient material to say exactly what accounts for it. Perhaps it must be ascribed to the fact, that on mountains the difficulties of transport are far greater than in the plain country. The distance at which manuring, for instance, ceases to be economical is in consequence comparatively small, and it is necessary to have the fields in the neighbourhood of the farm.

Whatever it be, we see very clearly that the relation of Nature towards human wants, a factor investigated carefully by geographers, but quite neglected by economic historians, has an important rôle in economic evolution.

The differences in a greater or smaller facility of cultivation of the soil, in its configuration, etc., account for the fact, that not everywhere does property pass through the same stages.

So the growth of population explains to us why the forms of property are changing with time the relation of Nature towards human wants, why they are different in space.

Between the four elements we have analysed there is a causal relation. Where they are present the development *must* pass through the same stages as those described above.

As far as man and society are guided by the economic principle and the principle of numerical strength, an increase of population must lead first of all to an intensification of economic life, and consequently to an appropriation of the soil. With a further growth of population when a class of poor springs up, an equalization becomes desirable. Natural conditions must react in the above described manner.

Here, however, we must make a restriction. The

¹ Baden-Powell, *Land Tenure*, I. p. 106.

natural process of formation of property, which we tried to describe and to explain above, can be perturbed, if the primitive population becomes dependent on the economic resources of a more advanced society. So, for instance, in some villages of Siberia, the peasants gained their living by carrying goods destined for European markets, and they attached little importance to agriculture. In consequence they did not divide the arable land, though under normal conditions it would have been necessary. This was clearly demonstrated when with the building of the Siberian railway the carrying trade ceased to be lucrative. The peasants at once felt a scarcity of arable land and introduced divisions.¹

These perturbations are not only very exceptional, but they modify slightly the formation of property. I think, however, that it is necessary to draw attention to them, because they show that, once a primitive society is caught up in a more developed *economic* system, the natural and normal process of evolution is disturbed.

Having tried to give hitherto a positive study of the laws governing the evolution of property, we want now to make some criticisms of the theories by which others have tried to explain the origin of the village community.

A great rôle has been attributed in this respect to *racial* elements. "We have seen," says Gomme, "that the evidence of comparative custom goes to prove that race elements enter largely into the history of the village community in the East, and that the parallel between the Eastern and English types suggests also parallel lines of development due to race elements."² And in Germany, Meitzen attributes equal importance to the same factor, and sees in the village community a

¹ Kaufman, p. 279.

² Gomme, *The Village Community*, p. 69.

feature of Germanic, and in the "Einzelhof" a feature of Celtic history.¹

Already at first glance one can see that there is no relation between race and the forms of property. We find the village community among the Malayans of Java as well as among *some* Aryans of India and Europe. Peoples inhabiting mountains never possessed common property, though they are ethnologically related to those living in plains.

Our evidence in Siberia shows most clearly that the influence of race on the formation of property is nil. Krol tells us that as the conditions among which the forms of equalization develop are quite the same among the natives (**Buriats**, Mongolic race), **Russian peasants** and **Cossacks** (Indo-Europeans), the line of their evolution of property is quite the same also.²

Among the **Buriats**, it is true, free occupation was more developed than among the peasants, but, as Professor Kaufman points out, "not because they are natives, but because they had a greater abundance of land."³

It is absolutely false—an error widely prevalent to-day—to think that emigrants transplant from one country to another the old forms of property. It is very often supposed that the German invaders brought the village community to England.⁴ Our material shows that tradition does not play a great rôle where economic interests are at stake. "The differences in

¹ A. Meitzen, *Siedlung und Agrarwesen der Westgermanen und Ostgermanen, der Kelten, Römer, Finnen und Slaven*, 1895.

² Krol, p. 177.

³ Kaufman, *Trans-baikal*, p. 158.

⁴ Meitzen, s.c., II. p. 101. A few pages before the same author explains the existence of the "Einzelhof" in some parts of Germany (Westphalia), by the fact that it was originally inhabited by Celts (p. 97). It is difficult to understand why in England the German tribes should have forced their institutions upon the Celts, and why, invading the much nearer situated Westphalia, they should have forgotten all about common property. This discrepancy shows all the weakness of the racial theory.

the forms of property," says Professor Kaufman, "do not at all, or scarcely at all, depend on any ethnographical peculiarities of special groups of the Siberian population: the old Siberians, *the emigrants from the most divergent parts of European Russia—from those where the village community or the farm system is the dominant feature*—nay, even the natives—form, as regards the evolutions of property, *one undifferentiated mass*: the forms of property develop, first of all, according to the degree of abundance of land."¹

The Russian peasant emigrating from a village community does not think about reproducing the old institution in Siberia. Without much hesitation he adopts the farm system and individual ownership as being more convenient.²

No more than race does *imitation* exercise any influence on economic evolution. The settlements of Russian peasants in the **Kirgiz** steppes do not anyhow affect the forms of property of the natives.³ Among the **Buriats** we search in vain for an example proving that they have introduced the division of lands, by imitating Russian peasants, who live in their neighbourhood. "It is difficult, yes, even impossible," says Professor Kaufman, "to speak of the borrowing of certain forms there, where all the evolution is gradual, where the community, before introducing divisions, passes through a number of intermediate stages, of which each one differs only a little from the other, and is organically connected with it."⁴

The origin of the village community has been very often explained by the introduction of a collective responsibility for government taxes.⁵ The evolution

¹ T. and T., p. 31. The italics are mine.

² Kaufman, 441-455; *Sib. Com.*, p. 275, 276.

³ Kaufman, *K. woprosu*, p. 24.

⁴ Kaufman, *Trans-baikal*, p. 159.

⁵ In Russia this doctrine has been during a long time popular among historians. It has been accepted by non-Russian scholars, as

of property has thus been traced back to the will of the legislator. The study of this problem in Russian Asia shows us that this factor does not play at all the important part attributed to it.

In every district of **Siberia**, where there is an abundance of land, and where in consequence there is no economic necessity to divide the land periodically, all the circulars of the government ordering such a measure remained a dead letter.

"Where," says Kachorowski, "in communities, all the strength in the internal struggle is on the side of those who are opposed to divisions, even such a strong force as administrative pressure is insufficient to produce them."¹

The same is pointed out by Professor Kaufman, who writes that where there is plenty of land all insistence of the authorities foundered against the obstinate opposition of the rich part of the population.²

"Where there is no necessity for divisions," says Krol, "the circulars very seldom lead to real divisions."³

Among nomads (Khirgizes and Buriats) as well as among the Russian peasants, it is impossible to speak of the administrative intervention as a constructive factor in the evolution of property.⁴

Only where the land has ceased to be abundant, and a strong desire to introduce divisions existed, did the communities comply with the orders of the administration.⁵

This transition, however, took place very often

Laveleye, Hildebrand, *Recht und sitte*, p. 186, etc. About the theories of the old Russian historical school (Chicherin, Belaïew, etc.) *vide* the book of J. V. Keussler, *Zur Geschichte und Kritik des bäuerlichen Gemeindebesitzes in Russland*, 1876-87, p. 8 *et seq.*

¹ Kachorowski, p. 208.

² Kaufman, pp. 415, 416.

³ Krol, p. 178.

⁴ Kaufman, p. 174.

⁵ *Ibid.*, p. 417; Kachorowski, pp. 208, 209.

without any external intervention, where the evolution was ripe for transition.¹

New historical studies made in **European Russia** have confirmed the Siberian observations. It has been shown in the government of Wologda, for instance, that the circulars of the government ordering a division of land were preceded by petitions of the poor claiming this measure.² Where there was no such necessity the government failed completely in European Russia as well as in Siberia, in its attempt to introduce the village community.³

As we see, legislation can simply facilitate the originating of new forms of property, but cannot shape them arbitrarily.

The same applies not only to external, but also to internal influences. An economic or social aristocracy is not able to force upon a community forms of property contrary to the economic interests of the majority.

The **Cossacks** are a military society, with all the social inequalities connected with it. The succession of the forms of property is, however, the same here as everywhere else. It is perhaps slower, but it is not different from the general line of evolution consisting in a transition from free occupation to periodical divisions.

So we see that such factors as race, imitation, legislation, etc., have no important part in the evolu-

¹ Kachorowski, p. 210.

² *Vide* W. W., *History*, and Kaufman, p. 426 *et seq.*

³ Kaufman, p. 431 ff.; W. W., *History*, pp. 5, 10, 29, etc. Simkowich, p. 77. "Es wäre deshalb falsch," he says, "den Einfluss und den Druck der Regierung zu überschätzen; die Regierung hat nur in seltenen Fällen selbstständig eingegriffen; sie begnügte sich damit, den Landarmen und Landlosen die Einführung der Feldgemeinschaft zu ermöglichen und dieselbe zu begünstigen." In another chapter, speaking of the government peasants, Simkowich still accepts the old theory of the forcible introduction of the village community, pp. 64-77.

tion of property, which is the result of the combination of four simple elements. Under equal conditions of density of population and of natural surroundings—supposing always the existence of the economic principle and the principle of numerical strength—the same forms of property *necessarily* originate. Every change in one of these elements *necessarily* produces a corresponding change in the economic structure.¹ So the evolution of property is not determined by accident, by the whims of legislators, but by causal laws.

Finishing this little book, I wish to express the hope that new studies will widen our knowledge of the forms of property among primitive peoples, and that others will be able to verify, to develop and to correct our generalizations.

¹ I have shown above how this normal process is perturbed when a thinly inhabited country becomes dependent on the economic resources of a more developed society (p. 65-66).

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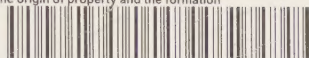
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